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When academics get together to talk about anything they tend to cheerfully disagree about everything. That is the politics of academic discussion. There is no constraint on the participants to agree. On the contrary, participants justify their existence by demonstrating their ability to put forward positions held by nobody else.

In this sense, it was a darn good conference — full of vigorous but never mean-spirited exchanges. However, by definition such a conference cannot be expected to produce a consensus. Not only was there no clear tendency to adopt any particular approach to constitutional change but there was not even agreement on the threshold question of whether the future of Canada was in jeopardy or, if it were, was it worth saving?

The discourse did reveal an intriguing pattern of cultural differences in approaching the constitutional issue. The French Canadians (all from Québec), if not exactly serene, were more "laid back" on the constitutional question than either the English Canadians or the Aboriginal participants. While I did not detect much enthusiasm for Québec independence, neither did I sense any anxiety that Québec's separation may occur. Their comments on restructuring alternatives indicated a strong commitment to asymetry, which in part seemed to depend on a determination to view English Canada as homogeneous and centralist.

The English Canadian participants did nothing to confirm this Québécois view of "The Rest of Canada". They agreed neither on the scale of constitutional reform (incremental or fundamental) nor on the process (traditional and elitest or novel and participatory). On constitutional models, opinion ranged from a somewhat centralizing English Canadian nationalist perspective to a deeply pluralist vision of the Canadian polity. While among this group there was a deep commitment to the constitutional game, there was considerable pessimism about the possibility of arriving at consensual solutions.

For the Aboriginal peoples, whose first choice of constitutional futures went by the board several centuries ago, "optimism" and "pessimism" are not relevant mental categories. This was reflected in the contributions of the Aboriginal participants. They made us more aware of the non-Aboriginals' hegemonic domination of the constitutional process. Indeed, the most significant question I took away from the conference is whether a constitutional settlement consented to by Canada's Aboriginal peoples can make any concessions to the Aboriginals' world view.

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I would like to set out my views about the proposed secession of Québec, many of which I presented at the symposium. In giving my views, I realize that I am breaking a taboo and articulating positions which are anathema to many in Québec. These principles, however, are crucial to the outcome of any future constitutional change.

1. **Canada: the sovereign state and its people.** Canada, as an integral whole, is a sovereign state, every part of which belongs to all of its people so far as political sovereignty is concerned.

2. **No double standard on indivisibility.** There can be no double standard on the issue of divisibility. Any principle which argues that Québec is indivisible makes Canada equally indivisible. And any principle which argues that Canada is divisible makes Québec equally divisible.

3. **The Constitution: the sole source of authority.** Canada's sovereign powers are exercised by its people through federal and provincial institutions, whose very existence and powers are established and defined by the Constitution, and by the Constitution alone.

4. **The Provinces: creatures of the Constitution.** Canadian provinces, as much as the Federation itself, therefore depend completely upon the Constitution for their rights and powers, and even their existence. Provinces can make no valid claim to any rights beyond, or outside, the Constitution. The provinces

are not — either legally or historically — "prior to" Canada, nor are they the "creators of" Canada: the law, rather, creates both.

5. **The Constitutional amendment processes: sole means of change.** There is no legal basis for any constitutional change — and therefore no right of secession by any province, territory, or other provincial subdivision of Canada — except through the means of change provided by the Constitution itself. (As Lincoln said, "The States have their status in the Union, and they have no other legal status. If they break from this they can only do so against law and by revolution": Complete Works, VI, p.315 (July 4, 1861).)

6. **Boundary lines mean nothing by themselves.** A line drawn as a boundary has no legal meaning — nor, indeed, any moral or other meaning — beyond its actual purpose. A line defining the boundaries of a province, municipality, or other political unit exists for no purpose other than the exercise of whatever powers (if any) are conferred upon it by law from time to time. A political boundary does not, merely because it exists, define a potential sovereign state.

7. **Rights of the people of a province: simply to govern a province.** In particular, the people of a province, and their political institutions, have no legal right — nor for that matter any plausible moral or other right — to govern its territory otherwise than as a province of Canada and within the Constitution of Canada. A province is what it is: no more no less.

8. **A boundary does not create a right to sovereignty.** The existence of a provincial, municipal or other boundary creates, in itself, no basis whatsoever for a claim of entitlement to sovereignty by the inhabitants of the territory. They cannot, so to speak, plausibly claim "to pull themselves up by their bootstraps" to a higher status. Any aspiration to greater powers or higher status depends on the will of the country as a whole.

9. **Dismemberment of the federation depends on the will of the whole Canadian people, as do boundaries of new state.** Since the dismemberment of the Federation depends on the will of the Canadian people as a whole, as exercised through their constitutional amendment procedures, there is no reason why the Canadian people are obliged to consent to the secession of any province; or, if they do consent, to allow it to secede with its existing boundaries or any other particular boundaries.

10. **An independent Québec has no valid historical or legal claim to the northern part of the present province.** The immense territories added to Québec by the Canadian Parliament in 1898 and 1912 were territories under English, and later British, sovereignty long before the cession of New France in 1763, having no connection with New France. These territories were added to Québec to be governed as part of a Canadian province.

It is sheer effrontery to demand that the 1898 and 1912 territories should form part of an independent Québec. Without these territories it is highly doubtful that Québec would be economically viable as a sovereign state, at any rate, viable at an economic level acceptable to its people.

11. **Duty of the Parliament and Government of Canada: Defence of the constitution, laws, and territorial integrity of Canada.** It is the duty of the Parliament and Government of Canada to enforce and defend the Constitution and laws — and therefore the territorial integrity — of Canada, against resistance by its enemies, whether foreign or domestic. This is obviously so in the everyday case of law enforcement against common criminals. The duty to defend the Constitution, laws, and territory against foreign invaders is also self-evident. It is equally so as regards rebels attempting the overthrow of the Canadian state in all, or part, of Canada's territory. A unilateral declaration of independence, by members of the legislature of a province or by anyone else, with or without a referendum, is an act of, or invitation to, treason, and the treason is complete, at the latest, when force is used to carry out the purpose of overthrowing the government. Under Canadian law, in sum, an attempt to overthrow the government is criminal as well as invalid.

12. **Use of force in defence of the Constitution: legitimate self-defence.** The use of force to defend the Constitution, laws, and territorial integrity of Canada is simply legitimate self-defence. The odium of resort to force properly lies on those who attack the Constitution, laws, and territory, of Canada, and not upon those who defend the status quo. The status quo represents the rights both of the Canadian people as a whole, and also of every individual who wishes to keep the country as one.

13. **Use of force in northern Québec.** Even if, in the face of a unilateral declaration of independence within Québec, the Canadian people, or their Parliament and Government, decided not to exercise their right to defend all of the territory of Québec by force, the use of the limited amount of force needed to retain the sparsely-inhabited territories of northern Québec would probably be effective to frustrate any attempt by Québec to secede, with or without the northern portion of the province. As an absolute minimum, it could be made perfectly clear that this will be done.

14. **Right of "self-determination".** It is difficult to discern any consensus at all as to the conditions of an internationally-recognized right of self-determination: who enjoys it; when and how it may be exercised; and what territory it applies to. It cannot plausibly be a right to assert repeated fresh claims, each of which would bring the state to an end at any time. It seems preposterous to assert that Canada can be brought to an end at any time at the demand of one of its provinces. So far as Québec is concerned, the population of Québec, through its elected representatives or its voters, opted for Canada in 1867 and again in 1980. I would argue that the issue of self-determination, if it existed, is closed; the people and province of Québec remaining free, like all others, to seek constitutional change within the Federation by constitutional processes. Assuming, however, that the French-Canadian people within Québec, as a group, have a moral or an international-law right of self-determination, so do others in the province: aboriginal peoples, for example, and other non-French-Canadians. And any right of French Canadians to self-determination can extend only over a limited portion of the present territory of Québec.

15. **Partition of Québec.** Demands for the independence of Québec thus compel consideration of partition of the province. In the event that Québec seeks, and Canada permits, the independence of Québec, new provinces of Canada could and should be established, or a rump province retained, both (1) in what is now northern Québec, and also (2) in those portions of southern Québec remaining loyal to Canada.

16. **Bargaining on reform.** Bargaining on constitutional reform must not take place on the basis that Québec can secede if it is dissatisfied with the progress or with the results. Rather it should be based on the principle that all legitimate concerns of Québecers, and of other Canadians, can be accommodated by balanced measures of reform.

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It is apparent to me that after 25 years of almost continual talk about constitutional change, the divisive issues remain, and new, divisive issues have materialized. Nothing has been resolved. Further, even academics are provincial (or regional) in their understanding of these matters. Québecers have little sense of prevailing currents of opinion outside their province; much of Western opinion is exotic to non-Westerners; nobody outside of Atlantic Canada is interested in opinion there; and few have anything to say at all in response to native political claims.

As well, I find it interesting that academics have retreated into generalities. What I mean is that they seem loathe to discuss particular proposals. This is quite a change from the latter part of the 1960s and the 1970s, when such proposals abounded and were almost all the products of university professors. The proposals contained in the studies of the Macdonald Commission seem to have been the last academic gasp. The Meech Lake proposals were the work of politicians and their advisors. Since then, the proposals circulating have been drafted by private citizens, members of think tanks and so on. There is nothing wrong with this, of course. But I do think that academics who are trained to understand the dynamics of political institutions have not contributed enough to public discussion on this score. For example, Senate reform should be a major issue to smaller provinces. In Atlantic Canada, there has been virtually no debate at all about the merit of competing proposals, just elementary statements for or against the idea of election. Perhaps that will change when the federal government presents its proposals to the Senate-Commons committee that it is planning to establish in the fall.

I am not overly optimistic that Canadians and their politicial leaders will resolve the constitutional impasse at which we seem to have arrived. I do think that if the recession continues, or worsens, the popular will for major change will dissipate, at least in the short term.