Reply to Michel Seymour

Kai Nielsen

I turn now to Michel Seymour. We are old Quebec sovereigntist comrades. But while we agree about many philosophical and conceptual things about secession—for example that only *nations* can secede—we also importantly differ concerning secession. I shall briefly try to give some reasons why I think Seymour's remedial account of secession is mistaken—not as mistaken as Allen Buchanan's carefully argued remedial account, but still mistaken.[1]

First to clear away one thing: my commitment to nationalism and, under certain conditions, secession, takes second place to my Marxian internationalism or, if you will, cosmopolitanism. If Quebec's seceding from Canada would harm the interests of the working classes of either Canada or Quebec I would be against it. Or, if you don't like talk of "the working class," if it would not be in the interests of the great masses of either people I would not be for it. In fact, contrary to what some of my Canadian progressive friends believe, I think it would be in the interests of such ordinary people in both Quebec and Canada. But that is an empirical issue. On the principled issue it is clear where I stand: I am a Marxian internationalist.

A further preliminary: don't blame my nationalism and commitment to secession on my moving to Quebec. Blame, before I even moved to Canada, Isaiah Berlin, along with, much later, a little from G. A. Cohen. I read Berlin on Johann Gottfried Herder and came to see the importance of a sense of nationality and cultural identity.[2] Before that I thought, like Brian Barry, of nationalism as a kind of disease that we should be inoculated from or, if we have caught it, that we should get over as soon as possible. Sometimes people change their minds, and sometimes not without reason. Moreover, I never thought of a liberal nationalism as incompatible with a Marxian internationalism.[3]

A final preliminary: as Seymour notes, I am only talking about secession

in politically liberal societies. What is to be said for other sorts of societies I do not comment on here.

Now to the substance of what is at issue. Buchanan and Seymour want to make secession rather difficult, Buchanan more so than Seymour. I want to make it easier. I would like to see no-fault secession be something like no-fault divorce. For a nation to have the right to secede it would not be necessary that the state it sets out to secede from have done it some wrong. If a nation wants to secede, a straight majority vote of the individuals who make up the nation is sufficient for it to unilaterally secede. It has such a right if the nation exists on a territory where people constituting the nation are the majority (not like the mélange of peoples in the old Austro-Hungarian Empire), does not violate the human rights of minorities in this territory (or any other place), and does not by seceding undermine the country from which it secedes in its capacity to function. If a nation has the right—what Seymour calls a "primary right"—to self-determination, then, I claim, it has a unilateral right to secession. They fit together like hand and glove, and they simply call to our attention a fundamental feature of democracy, that a people have a right to direct their own lives as they wish as long as they do not violate the rights of others. Where it is inescapable, whatever we do, that some such rights get violated, we should not violate the more central rights and violate as few rights as possible.[4] (This, of course, cannot always be determined. Sometimes we must just choose.)

Seymour (as does Buchanan) wants stronger conditions than that for secession to be a right of a nation. What does Seymour want? He claims, beyond what I claim, that nations have a right to secede only if they suffer important injustices, one of these injustices being if the state fails to comply with principles such as internal self-determination. By "internal self-determination" he means "the right of a nation to have administrative, institutional, and constitutional arrangements that it wishes to have within the encompassing multination state." On his view "a nation is entitled to choose its own particular arrangements within the encompassing state even in the absence of past injustices."[5] I agree with Seymour that if that internal self-determination is blocked or otherwise interfered with, a nation, even in the absence of other injustices, has the right to secede. Where I disagree with Seymour is that if this right of internal self-determination is honored and no other injustices are inflicted on the nation, the nation does not have, as Seymour has it, *the right* to secede from the encompassing multination state. Suppose the members of a nation agree by a straight majority in a fairly run referendum that, while they agree that their internal self-determination was not blocked, they still wish—endorse reflectively, if you will—that they want out of the multination state. They want a fuller autonomy in which they are in no way bound by the encompassing multination state, but fully run their own ship of state as they wish, where they respect the rights of others and do not harm the encompassing state or other nations in the multination state or, for the matter, elsewhere. They simply want, and want after reflection, *out*. A robust democracy

will respect that—a respect, that is, for the equality and autonomy of nations as well as for the equality and autonomy of persons. (Of course, there are all kinds of ways of subterfuge occuring here. But here I am doing ideal theory.) It would be paternalistic domination not to respect that. The nation splitting away—what I would call seceding—may be mistaken; they may later come to see that was not the road to be taken. But nations have the right to make their own mistakes.[6] But Seymour will deny them that. He claims that if internal self-determination obtains and no harms are done to the nation by the encompassing multinational state, no matter what is wanted and democratically voted on, no matter by what majority in the nation, that that nation must remain in the multination state. This is undemocratic and disrespectful of the basic right of self-determination. If self-determination of nations is to mean anything it must go all the way down and that includes the right to secession unencumbered as Seymour and Buchanan (even more) would encumber it.

This is the central point. But there are two other points of not inconsiderable importance that I would like to discuss. One comes up most clearly in Seymour's last section called "Nielsen's Account." Seymour again and again blurs the important distinction between *having the right to do* something and its being desirable, a good thing, the right thing to do, *to exercise that right*. We may have a right to do what may turn out *not* to be the right thing to do. There is no paradox in that, but just a distinction between what it is to have a right and what is the right thing to do. In exercising their rights people may do some stupid things, even very wrong things, but if we respect them we will not try to stop them though we may, where we think we have good reason, counsel them against their actions.[7] Similarly, there are things we should do that we have no obligation to do where nobody can rightly tell us that we *must* do that thing. I should exercise more and have fewer desserts. People who care about me will counsel me to exercise more and have fewer desserts. If they use the phrase "you simply must do that," it has only the force of a "should" while giving the sense of the considerable importance of the matter. No categorical imperative is being uttered and it is not an obligation or duty of mine. In such situations it is up to me to decide. As H. L. A. Hart argued a long time ago, there is a distinction between "ought" and "obligation."[8]

Seymour remarks that I say "nations," as he puts it, "*must* always have good reasons to secede." Thereby, if he has got me right, I am unsaying what I have just been saying, and Seymour adds, "Here, I fail to see the difference between his [Nielsen's] own primary right theory and my own remedial account if by 'reasons' he [Nielsen] refers to harms that have been done to the seceding nation." He claims that nations *must* always have good reasons to secede, but that is not a quote but refers to footnote 21 in the text Seymour cites where I say, "A state should not, and indeed in most instances will not, break up without good reason."[9] That is not the same as to say that nations *must* always have good reasons to secede. "*Should* not break up" is not "*must* not break up without good reason." So I am not saying or implying that a *nation* must always

have good reasons to secede. They probably will, otherwise they would not want to secede. But it may be that a nation—or rather its people—just does not want to carry on with this multination union any longer. Yet Seymour just says they must hang in there within the multination state. That sounds to me like an undemocratic assertion showing scant respect for persons, though I am confident it is not Seymour's intention. And it does nothing to show that my account is like Seymour's remedial theory. We do not, whenever we exercise the right to secede, *have* to invoke good reasons, as Seymour claims. Sometimes it is enough for the population just to want to secede. Probably there will be reasons but then there will probably be counter-reasons and it may finally come down to what a population, on reflection, wants (is ready to endorse). It is like a person considering a divorce. It might come down, everything considered, to what the person wants. A woman might say to her husband, "I know you have not been unjust or unkind but I just want out of what for me is a stultifying life," and she might find it difficult to articulate what makes it stultifying. It seems to me a nation might be in a similar pickle. Who are we, unless we wish to be dictatorial, to say "She cannot have the divorce" or "That nation cannot secede"? Seymour's account of secession, as Buchanan's, is too *constraining*. I certainly do not have any kind of remedial theory. I am saying that it would, in most situations anyway, be right for us to be constrained by reasons, but sometimes it might be just a matter of *what we reflectively want*. That itself might be called "a reason." But sometimes we do what we want for no reason other than just because we want to or when we consider the matter well we will want to. In both the divorce case and in the secession case we, of course, shouldn't make the decision lightly. We should try to articulate reasons and be suspicious of ourselves if we are not able to, but for a person divorce or for a nation secession, if that is what they, on sober reflection, want, the person or nation has a right to it. I seek to make both easier as against the remedial rights account. Both internal self-determination and secession are involved in the general primary right to self-determination, but without the possibility of secession we will not have pushed our reasoning about self-determination far enough.

There is a second, quite different place where I differ with Michel Seymour. I think that national identity or (in quite different societies) a cultural or local identity is a primary social good. Like self-respect, it is necessary for us to be able to do the things we want to do. It is not sufficient to say, as Seymour does, that national identity or nationality is not a primary good because not all individuals treat their own nation as a primary good. People do not have to *treat* something as a primary social good for it to be a primary good. Deprive them of it or cut back on a putative primary good and see how they react, then you can make a genuine surmise over whether it is a primary good. Attack or threaten to undermine their cultural identity by depriving them of their national identity—say, their language—and they will be very stressed and disorientated and if that obtains we have good reason to think that is a primary good. Think here of what the English did to the Irish when they deprived them

of their language or what the Chinese are doing now to the Tibetans. Further, I do not see that Seymour has shown that cultural diversity is instrumental in the preservation of the human species. It would be a terrible thing if we humans lost our cultural diversity and we had just one hegemonic culture with one hegemonic language, but that would not mean the human race was dying out. The value of human diversity is justified as J. S. Mill and Isaiah Berlin justified it. It makes for a richer and more flourishing human life. If we all were pretty much of a sameness, that would deprive us of much of the richness of human life, but it would not put human beings out of business.[10]

NOTES

1. Michel Seymour, "Secession," in this volume, and Allen Buchanan, "The International Institutional Dimension of Secession," in *Theories of Secession*, ed. Percy Lehning (London: Routledge, 1998).

2. It may also be the anthropological study that I engaged in at the start of my graduate life that is influencing me here. See my "Undistorted Discourse, Ethnicity, and the Problem of Self-Definition," in *Ethnicity and Language*, ed. W. D. Van Horne (Milwaukee: University of Wisconsin Press, 1987).

3. See my "Undistorted Discourse." Also see my "Liberal Nationalism, Liberal Democracies, and Secession," *University of Toronto Law Journal* 48, no. 2 (Spring 1998).

4. There is in this paragraph room for a lot of ceteris paribus clauses. But this is par for the course over substantive normative matters.

5. That surely was not Michel Seymour's intention.

6. Otherwise there could be no national self-determination.

7. If what they are doing is *very wrong*, this does not hold. We should do more than counsel the Jew-hater or the Arab-hater who says he is going out to kill a few Jews or a few Arabs thinking the only good Jew or good Arab is a dead one.

8. H. L. A. Hart, "Legal and Moral Obligation," in *Essays in Moral Philosophy*, ed. Abraham Melden (Seattle: University of Washington Press, 1958).

9. Kai Nielsen, "Liberal Nationalism and Secession," in *National Self-Determination and Secession*, ed. Margaret Moore (Oxford and New York: Oxford University Press, 1998), n. 21.

10. I am less sure than I once was that either national identity, cultural identity, or some other local identity is a primary good though not for the reasons Seymour gives. I have been impressed by Jeremy Waldron's building on Salman Rushdie's views about the richness and nondeterminateness for many of us creatures of modernity of our mongrel, bastardized, in some ways mixed-up selves—a bit of this and a bit of that—and yet Wil Kymlicka's response to him is also impressive such that I am less confident of what to think here. Jeremy Waldron, "Minority Cultures and the Cosmopolitan Alternative," in *The Rights of Minority Cultures*, ed. Will Kymlicka (Oxford: Oxford University Press, 1995); "What Is Cosmopolitan?" *Journal of Political Philosophy* 8, no. 2 (2000): 227–43; and Will Kymlicka, *Politics in the Vernacular* (Oxford: Oxford University Press, 2001), pp. 203–20.

John Kerkhoven has diligently and perceptively gone over all my replies. He has saved me from many a stylistic infelicity and sometimes from downright ungrammarities. He—being the philosopher that he is—has challenged me and rightly on several substantive points and he has sniffed out many ambiguities and showed me ways to avoid them. I am deeply grateful to him.