

Secession: The Case of Quebec

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ABSTRACT *I argue that people have a right to self-determination when they are plainly predominant in a certain territory and do not violate the civil liberties of minorities. But there is no self-determination without the preservation of self-identity and the cultural preservation that goes with its secure existence. So to preserve autonomy and self-determination people must preserve their cultural identity and this cannot be securely sustained in modern conditions without a nation-state concerned to nourish that identity. Such considerations support a right to secession when certain conditions are met. The conditions are that the people in question have a cultural identity, live in a distinct territory which they have inhabited for a long time, form an extensive majority, and respect the civil liberties of the minorities living in that territory (as well as elsewhere). Where they are such a group they have a right to secede from a larger state to which they are historically attached. These conditions, I argue, are met in Quebec.*

I

If we, as I think we must, justify moral judgments by showing they are considered judgments that would remain such when they are in a wide reflective equilibrium, then we must — or so I shall argue — accept the right of persons who are extensively predominant in a distinct territory to determine their common destiny provided they do not violate the civil liberties of others, including, of course, minorities who live in the same territory. [1] They have the right, that is, to determine how they wish to live including very fundamentally how they wish to govern their lives together. This is particularly urgent for a people who possess a distinct culture and traditions and who cherish that possession. That such people have such a right is one of our bedrock moral judgments. It is a judgment of the type that John Rawls calls one of our considered judgments. [2] Moreover, it is not an isolated considered judgment, but a considered judgment — or so I shall argue — that fits into a coherent pattern of other considered judgments, theoretical moral conceptions and empirical beliefs that people living in constitutional democracies under conditions of modernity will characteristically have. I say nothing about what could be justified to anyone, or even to any rational anyone, living under any conditions anywhere, anywhen. I suspect we could not even get a purchase on such a non-historical, non-contextual justification. But, be that as it may, I am speaking of justification for *us*, that is for modern, democratically committed people living in constitutional democracies. [3] I have, to repeat, not much confidence that we can plausibly speak of what would be justified to any rational agent. Justification, fragile enough in any event, is much more contextual and historically determinate than that. [4]

My above claim is what in our popular and vague political jargon has been called the inherent right of self-determination. I am not very comfortable with such talk for what an

inherent right is unclear and what a right is is also unclear. But the above expresses a partial de-mythologisation of such talk and it is a conception I shall defend and explicate.

Nation-states — or at least those we know — are hardly objects of love, reverence or even of strong loyalties for informed people with democratic sentiments relatively unencumbered by ideology. Still states are necessary evils, essential instrumentalities for security and the very possibility of something approximating a commodious life. [5] Socialist anarchism, when we do not think of the nuts and bolts, is indeed an attractive ideal. But, alas, the nuts and bolts are always with us. If we believe that people have a right to self-determination when they are plainly predominant in a certain territory and do not violate the civil liberties of minorities living in their territory or indeed elsewhere, then we should also, for the situations in which we live, believe they can rightly form a nation-state or justifiably protect the nation-state they have as a necessary instrumentality to secure their autonomy and self-definition as a people and to develop and sustain their own distinct culture and traditions. But in the developed societies of the world where the conditions are those of moderate scarcity, such state-forging or state-sustaining is only justified if the state that comes into existence or is sustained is a constitutional democracy. And we cannot have a constitutional democracy unless the civil liberties of the people living within that state are protected.

The application to Quebec should be plain. The society or nation that is Quebec can rightly form a nation-state if it chooses. It is all a matter of what Québécois reflectively want and that is up for democratic determination by Québécois. This comes in this circumstance essentially to majority determination. That decision can be made and that state formed without violating anyone's rights; moreover, where the state to be formed is a constitutional democracy, it must be done without such violation. Any other kind of political order in such circumstances would not have legitimacy.

This implies a right of secession, indeed even of unilateral secession, for people situated as I have described them. If they are a people who even perceive themselves as having a distinct culture and traditions and are extensively predominant in a distinct territory then they can justifiably secede from a nation-state in which they are embedded if they by a democratic decision choose to do so as long as they do not violate the rights of other persons living in the territory, including (of course) the new minorities that would be created by their secession. It is not, however, one of the rights of individuals that they can have the state of their choice irrespective of the wishes of other individuals in the territory in which they live. To think otherwise is individualism gone mad, becoming completely forgetful of democracy.

II

Suppose it is said, as traditionally liberals and Marxists did, reflecting the orientation of Enlightenment rationalism, that we should not, except instrumentally, care about such local identities, such national identities, the *Volkgeist* or *Nationalgeist* celebrated in the face of Enlightenment *rationalism* by Johann Gottfried Herder. [6] A concern with such matters, Enlightenment rationalists believed, was a sign of immaturity, an irrational relic of, or a return to, a barbarous past or at least to a chauvinistic and unenlightened ethnocentrism prone to xenophobia. [7] We should, the claim goes, resist such ethnocentric loyalties. We should be internationalists, not nationalists, eschewing local

attachments. Humanity, rather than some cultural particularity rooted in group solidarity, should be the object of our reflective commitment and should be an underlying ethical conception, a thoroughly humanist and internationalist conception, in accordance with which we structure our political endeavours. Appeal to national sentiment — the sense of belonging to a nation — is always a mark of immaturity and ethnocentrism.

Both Marx and Comte so reasoned. They regarded national or regional loyalties — local attachments — as forms of irrational resistance rooted in lower forms of social development which further historical development would render obsolete. G. A. Cohen, his analytical Marxism to the contrary notwithstanding, taking a page from Isaiah Berlin, who in turn roughly follows Herder, takes this to be a mistake, a mistake which has blinded many socialists and liberals alike to the power and appeal of nationalism in both the nineteenth and twentieth centuries. [8] Nationalism is, as Berlin remarks, ‘today a worldwide phenomenon, probably the strongest single factor in the newly established states, and in some cases the minority populations of the older nations.’ [9] Standardly, but not invariably, this strongly felt desire for ‘national independence is intertwined with social resistance to exploitation.’ [10] It may well be, he goes on to say, that ‘no minority that has preserved its own cultural tradition . . . can indefinitely tolerate the prospect of remaining a minority forever, governed by a majority with a different outlook or habits.’ [11]

No normative politics which would root itself in the real world and not become in a bad sense utopian can afford to ignore these sociological and psychological considerations. People will suffer and will not flourish where they do not have a secure social identity. [12] Herder is right in believing that among the basic needs of human beings, as basic as the need for food, procreation or communication, is the need to belong to a group, to belong, that is, to some community. But this means an attachment to local identities and not just to humanity in general. But these communities, these *gemeinschaften*, are all distinct with their own characteristic shapes and patterns. The members of these communities are formed into a stream of tradition which deeply forms who they are and what they are like both emotionally and intellectually. Berlin puts Herder’s conception thus: ‘Human customs, activities, forms of life, art, ideas, were (and must be) of value to men, not in terms of timeless criteria, applicable to all men and societies, irrespective of time and place . . . but because they were their own, expressions of their local, regional, national life, and spoke to them as they could speak to no other human group.’ [13] We must, the claim goes, if we are to make sense of our moral and political lives — of our lives as the social beings we are — give moral weight to the bonds of particular identities rooted in a tradition, a particular language, a particular history, a particular region and the like. This, as Herder argued, need not, and indeed should not, lead to the ethnocentric, aggressively nationalist claim that our tradition is superior to all others or to a claim that other traditions do not have merit, perhaps an equal merit to our own or even a greater merit, but to a recognition that the very fact of its being *ours* is important to *us* and that we must, as Emile Durkheim argued, acknowledge the importance of such local attachments to ourselves, whoever we are, if we are not to experience alienation, feelings of homelessness and anomie. Human beings, if they are to escape such ills, cannot be rootless cosmopolitans. They can, and indeed should, Herder believed, be cosmopolitans as well, but they cannot be *rootless* cosmopolitans. Loyalty to humanity is not enough; everyone also needs a sense of home, of being a member of a particular kind of people. We cannot transcend or set aside such particularities about ourselves. [14]

Put more abstractly, these cultural particularities are necessary for the satisfaction of a

person's need for self-identity or self-definition. Self-realisation and a sense of self cannot be sustained simply by creative activity or an identification with humanity. Development of human powers, Feurbachian *species-being*, indifferent to particular culturally specific self-definitions, is probably impossible, but, even if possible, it is not sufficient to provide anything like an adequate self-definition. As G. A. Cohen well puts it, 'A person does not only need to develop and enjoy his powers. He needs to know who he is and how his identity connects him with particular others. He must, as Hegel saw, find something outside himself which he did not create, and to which something inside himself corresponds, because of the social process that created him, or because of a remaking of self wrought by later experience.' [15] We are, to put it crudely, lost if we cannot identify ourselves with some part of an objective social reality: a nation, though not necessarily a state, with its distinctive traditions. What we find in people — and as deeply embedded as the need to develop their talents — is the need not only to be able to say what they can do but to say who they are. This is found, not created, and is found in 'the identification with others in a shared culture based on nationality or race or religion or some slice or amalgam thereof.' [16] Given this nature of our human nature, national consciousness and the forging and sustaining of a nation are extremely important to us (whoever we are). Under modern conditions, this securing and nourishing of a national consciousness can only be achieved with a nation-state that corresponds to that national consciousness.

III

A number of criticisms of this social reading of self-definition come trippingly to the tongue. First, it might be claimed that for cultural preservation and a national consciousness to flourish there is no need for a nation-state to represent and protect that national consciousness. A nation does not have to have a nation-state of its very own, articulating its interests. All we need for self-definition is a shared culture in a non-hostile environment. A national consciousness, a sense of being a people, as Herder stressed, who is as anti-statist as Mikhail Bakunin, does not require a nation-state to give expression to that identity.

It is indeed true that a people can have a sense of nation without having a nation-state, but what is also true is that this national consciousness, and the identities that go with it, are, under modern conditions, only secure when people with these national identities gain control of the conditions of their existence by having the power that goes with having their own state: a state which protects and actively furthers these national aspirations. Multi-cultural or multi-national states have not worked very well. They have not been good at protecting, to say nothing of enhancing, the social identities of their diverse cultures. We do not have to go to extreme cases such as Hungary, Romania and what was once the Soviet Union or Yugoslavia to see this. Even in such secure constitutional democracies as Belgium and Canada things have not worked very well. Finland and Switzerland seem to be the only disconfirming instances, but Switzerland works well — or at least seems to work well — by having an extremely weak federal structure where almost all power and control goes to the cantons. Finland's nation-state is young and there have remained conflicts, though fairly muted ones, between the Swedish-speaking and Finnish-speaking peoples that make up their population. So my generalisation seems to hold. Moreover, when we go to the great multinational empires, containing within their boundaries many

cultures, again and again, they have turned out to be the monstrosities that Herder believed they could hardly avoid being.

So we should conclude that people with a national self-consciousness need a nation-state to secure their social-identity and a control over their own lives. This secure self-identity is something they will not have if their state is controlled by foreigners, even well intentioned foreigners, with different self-definitions and aspirations. (They would hardly be foreigners if they were not so different.) Both a people's desire to secure their social identity and their related desire for autonomy require their having a nation-state of their own.

Why, it might be objected, care about *social-identity* at all? Isn't autonomy, control over our own lives simply as individuals, what we want, or at least, if we are clearheaded, what we should want? Social-identity or definition is only valuable when it leads to that. It is us as individuals, simply as individuals, that count. The value of social-identity is purely instrumental and only insecurely so at that. These claims, though familiar, are false. The very control over our lives that we want is control over *our* lives not only as individuals but also over our lives as a distinct people. And remember we are all, with varying degrees of well-delineatedness, members of a group who are a distinct people. [17] Indeed we could hardly be individuals, distinct personalities, without such a social-identity. Without it we would hardly be recognisable as human beings such that we could be autonomous. Indeed, as Steven Lukes's and Maurice Mendelbaum's criticisms of methodological individualism bring out, we cannot even identify many of the doings of an individual as actions without reference to a social dimension. [18] Aristotle recognised that we are social animals and Herder recognised that we are the sort of social animals that inescapably have particular identities rooted in particular socialisations. We are not just, or perhaps even at all, citizens of the world but Finns, Québécois, Danes, Catalonians, Basques, French, and the like, though sometimes in the modern world our identities are mixed. Sometimes our nationality has a home in a state that is ours and sometimes it does not, but it is under modern conditions insecure to the extent that it does not have such a home.

Philosophers, addicted to traditional normative ethical theory, even when they accept our pervasive sociality, are also likely to ask why care about, except instrumentally, such social self-definition or social-identification? Autonomy, liberty, self-realisation and pleasure are perhaps all intrinsically good but self-identity is not. Why should we want to be a certain sort of person (a token of a type of people) at all? What it is reasonable to want instead is to be free, to be able to do what we as individuals want to do free from interference, to be happy, to have our desires satisfied, and the like. Why care about such cultural things as self-definition, an understanding of who we are?

The answer comes in two parts. First, *we just do* and if we try to stand free of this we will neither be autonomous nor happy. Secondly, exactly the same question can be asked about why we should care about autonomy, freedom, happiness, pleasure, and the avoidance of pain. Why should we think the former four are intrinsically good and the latter is intrinsically bad? Well, the answer, as Henry Sidgwick said about pleasure, is that when we reflect on it carefully and are not suffering from conceptual confusion (confusing intrinsic goodness with instrumental goodness, for example) we just find that we do. Pleasure just seems to us, both initially, and on careful reflection as well, to be intrinsically good. It is just something that is wanted in itself: what Georg von Wright regards as the mark of intrinsic goodness. [19] Similar things, though Sidgwick would not say that of them, can be said of freedom and autonomy. These are things which we just care about and want for their own sakes. We can show that we have reason to care about them in as much as they are also

instrumental goods, but we also care about them for their own sakes and cannot give a reason for that beyond saying that when we reflect carefully and take the matter to heart we just find that we do. [20] But social self-identity has the same status. That it has such value is, to revert to my remarks at the beginning of this essay, a considered judgment, like the others, and there is no getting back of it, or the others, to ground that considered judgment, though there is at least a possibility of getting considered judgments into the coherence pattern that is wide reflective equilibrium: the non-foundationalist form of justification defended by Quine, Davidson and Rawls. Or, still avoiding foundationalism, if this appeal to considered judgments is thought to be question-begging, they can be taken instead to be considered preferences — things wanted, and wanted on reflection, in themselves — and these considered preferences can be put in wide reflective equilibrium as well. Pleasure, freedom and self-identity all have the same status here. We have no more reason to treat social self-identification as an unacceptable value because we cannot prove that it is intrinsically good than we have for saying that pleasure is not good and pain is not bad because we cannot prove they are intrinsic goods and intrinsic bads respectively.

IV

I want now to turn to a quite different cluster of objections: objections that turn around burden of proof considerations. Taking all rights as defeasible, I have defended as a basic principle the right (claimed right) to national self-government and with that the right of secession, indeed, if necessary, unilateral secession, for a group seeking to form a nation-state answering to their aspirations. When I speak of such a group, a group forming a nation, which could also become a state, I am talking about a group living in a distinct territory (having inhabited it for a long time), possessing an extensive majority in that territory, and having as well a distinct culture. [21] It can rightly secede from the state of which it is a part if it so wishes and does not violate the civil liberties of others, that is, to put the point more broadly, if it plays according to the rules of constitutional democracies and accepts the norms of international law. Where there is such a wish on the part of such a territory-based people, meeting the above conditions, the right of secession should be relatively unproblematic morally speaking. It reflects the very high value we place on self-determination, autonomy and respect for persons: how deeply we believe that people should be free to live their own lives in the way they wish provided they do not inflict certain harms on other people: roughly the harms John Stuart Mill canvassed.

My account takes a rather more permissive view of secession than some others (Allen Buchanan's, for example), yielding fairly readily a right to secession (including unilateral secession). [22] I take the burden of proof to be on the people wishing to block the secession to establish that that right is justifiably to be overridden in the particular circumstance they are considering. (Sometimes, of course, it will be justifiably overridden.) Some have thought and argued (Allen Buchanan again comes to mind) that the burden of proof should go the other way. There, on such a conception, is no right to secede and there is no right to cultural preservation, let alone cultural nourishment. The seceding group, it has been argued, is taking a portion of the territory of the existing state and they need a very strong justification indeed to be justified in doing that. The goods, even the very great goods, of cultural preservation and self-determination of a people are not strong enough reasons to justify such a taking. The person arguing for the justifiability of secession, the claim goes,

must show a deep injustice has been done to the people wishing to secede and as well that no greater injustice would result from the secession. There is, on this account, always a presumption against secession. It typically causes great harm so engaging in it requires considerable justification.

I, by contrast, believe that the right of secession should be treated like the right to a no-fault divorce. We should have no-fault secession as well as no-fault divorce. No prior or imminent injustice need be shown in either case. If the parties want to split in either case they have the right to split provided certain harms (not all harms) do not accrue to the other party. If Mary wishes to split with Michael she should have the right to do so provided there is a fair settlement of their mutual properties, adequate provision and care of any children they may have is insured, and the like. Similarly if Quebec wishes to split with Canada it should have the right to do so provided a fair settlement of mutual assets and debts is made and the like. Just as Mary does not have to prove that Michael has been a bastard or anything like that for her to be able to divorce so Quebec should not have to prove that grave injustices have resulted from Quebec's union with Canada or, if you will, the rest of Canada, to justify secession. (Perhaps there have been such injuries resulting in injustices requiring rectification, but that is another matter.) No party need be at fault to justify divorce. It is enough that Mary no longer wishes to live with Michael. Similarly it is enough that Quebec wishes to leave Canada (if that is what Quebec wishes) to justify secession. Quebec does not have to show that it has been harmed by Canada.

It seems to me at least that for liberal societies with a respect for self-determination, autonomy, equality, and democracy such views both for divorce and for secession should be rather unproblematic. Such beliefs, as I have remarked, have led me to take a rather permissive and relaxed view about secession. Why have some not wished to take such a permissive view about secession even while remaining defenders of liberal society? Such people are very likely to take such a permissive view about divorce but then why not about secession?

Some might say where no coercion was involved — a big *if* in most state arrangements — a contract, if it was entered into voluntarily, is binding and one cannot break it without very good reason indeed. Just as one cannot rightly just walk away from a marriage after a withdrawal of one's affections so one cannot just walk away from existing state and constitutional arrangements when a group withdraws its political affections and just no longer wishes to be part of that state. Those people still cannot rightly, even if they have the power, *just walk away*.

Moreover, the analogy might be attacked on the familiar grounds that what consent comes to is much less clear in the state case. (Think here of standard criticisms of Locke.) When did most of us sign the social contract? But I leave that aside and treat the two cases as relevantly parallel. It is true that we cannot just walk away from such situations. In the marriage case, if Mary and Michael have taken on mutually agreed on debts, then one party cannot rightly ignore those debts leaving the other party holding the bag. Similarly there must be a fair division of the properties and other assets held together and, as well, provision must be made for any children they may have, and finally, and most controversially, if one party, through no fault of her own, has been hurt in certain plain ways by the arrangements of their marriage while the other party has been benefitted, the party benefitting must compensate the party harmed. Thus, as is typically the case in a marriage, where a woman through the rearing of children is economically disadvantaged, while her husband, free or freer from that task, is advantaged by the arrangement, compensation is due to the woman

other things being equal. [23] But not any kind of hurt will suffice. If Michael suffers because of the loss of Mary's affections, he will just have to bear with it, unfortunate as it is for him. Affections cannot be held by contract anyway, but even if they could, or somehow could have their replacements, in a society that respects autonomy and self-determination, the desirability of people being able to live their lives as they wish outweighs the effect of *such* harms resulting from the exercise of such an autonomy. Such harms, though genuine, cannot be justifiable grounds for blocking divorce. Compensation for exploitation or the taking of advantage, yes, but for such harms no.

Similar things obtain for the case of secession. If Quebec wishes to split with Canada it cannot justifiably walk away from the national debt. It cannot, nor do independentists propose it, just secede and leave the remainder of Canada with the entire national debt. Similarly, with such a split, Canada in turn cannot rightly demand that Quebec pay for all federal property in Quebec that would come into its possession where the tax monies for the property had been collected equitably in all parts of Canada and where all federal property had been reasonably equitably located in the various parts of Canada. There are requirements of fair treatment and fair division on both sides. Thus the seceding nation cannot just walk away from its previous association, particularly where it is in a no-fault situation, without there being a fair division of the assets and liabilities of the state they are seceding from. Here, to insure fairness, either the parties must come to an uncoerced agreement or failing that they must abide by a decision from an international court. The court does not decide on whether the society has a right to secede — that is not in any court's jurisdiction — but on what in such a situation is a fair division of assets and liabilities. Again, as Michael very well may lose from the withdrawal of Mary's affections, so English Canada will plainly lose culturally from Quebec's separation. But again, such a consideration cannot outweigh the right of Quebec to separate if Quebec chooses. That is just a loss Canada, in such an eventuality, must bear. That Quebec cannot just walk away yields no presupposition against secession, even unilateral secession, but only claims that secession to be justified must take a certain course. Again it is parallel to the divorce case. It will, of course, as it is also the case in divorce, often be agonisingly difficult to ascertain what a fair division is, but this difficulty is not an impossibility, and where, as is true in our societies, autonomy, equality and self-direction are very deeply embedded considered judgments, such difficulties cannot defeat the right to cultural preservation and the right for a given people to take, as a people, control over their own lives.

Suppose someone, still resisting my rather permissive view about secession, insists that, my above arguments to the contrary notwithstanding, the moral presumption should be against secession for we should always work with an assumption of the territorial integrity of the state. Property, she claims, needs to be respected. We cannot rightly divide up territories that the state has a right to. Only some very considerable injustice to the group that would secede, an injustice strong enough to require rectification, would justify such a dividing up of territory, the dividing of which would undermine the territorial integrity of the state. But this is another form of property worship. Why give such a strong moral weight to the territorial integrity of the state? States come and go with changing circumstances, including changes in social-identity. Canada, after all, is only around a hundred years old. Moreover, we have seen recently a rapid and extensive disappearance and emergence of states. Nobody knows, or can know, about the justice of the initial acquisitions and the value of a state is purely instrumental in any event. What we should worry about, more fundamentally, is not property rights and the territorial integrity of the state, but what

arrangements will most nearly equally empower more people in such a way as to give the maximum number of people the maximum possible control over their own lives that is compatible with as many others as possible having that same control and empowerment. Stress on property rights and the territorial integrity of the state is little more than an ideological mask for protecting the status quo whatever it happens to be and that, standardly, works against people taking control of their own lives.

Secession, of course, creates new political minorities and these minorities must be treated fairly. But, as the world is, there will always be minorities. Francophones are a minority in Canada and Anglophones would be a minority in a Sovereign Quebec. There is no reason, because of this, to opt for keeping the status quo or for changing it. The crucial thing, whether the minorities are old or new, is that the minorities have their civil liberties protected. Where this obtains and there is an extensively predominant, culturally distinctive, group long resident in a given territory who wish to secede from a state that group is part of, that group is justified in doing so, even though new minorities are created, as long as the civil liberties of those minorities are not violated. And it is not enough to block this that the soon to be created minorities *fear* that their civil liberties will be violated; there must actually be some good reason for believing that will happen.

V

I have hitherto considered moral objections to my permissive view about the justifiability of secession. There are, however, as well, prudential, broadly pragmatic, objections and some objections which are a mix of pragmatic and ethical considerations. It will be claimed that switching from an existing state to a new state is extremely costly. Moreover, it leads to instability, undermines people's security and their being able confidently to rely on an established authority. Their situation could in various quite practical ways be worsened.

Here I think we need to be cautious and go case by case. It looks like this litany of harms (or something like them) would obtain in many places, but not in all. In what was the old Soviet Union and in what once was Yugoslavia these harms or many of them do indeed obtain. But when Iceland and Norway split from Denmark this was not so. Where there is a long history of injustice, mutual suspicion and hatred, chauvinism, religious intolerance, racial intolerance and xenophobia, things can be expected to go badly, as in Yugoslavia or Romania. There will in such circumstances be a lot of insecurity and many people will (to put it mildly) be harmed, but then there was in the pre-secession situation a lot of this going on already or other very bad things as well (e.g., totalitarian or authoritarian domination). It is anything but clear over time where the greatest amount of harm obtains. We need, as I remarked above, to go case by case and be very cautious about generalising.

Where these plainly bad things do not obtain or only obtain in a very diminished form, then there is no good reason to think secession will be so costly. Scandinavia is an example and if the Welsh and Scots wish to go it alone, outside the United Kingdom, there is no compelling reason to expect that the cost would be great. A reason for thinking that it would not is that there the situation would be one in which people's beliefs — centrally the depth of their democratic commitments, respect for individual rights and capacity to be reasonable — would be crucial restraints. [24] Should Quebec take the road of independence it is not unreasonable to hope, and to expect, that both sides would be tolerably reasonable. There would, of course, be a lot of posturing and some ideological dirty pool (something we see

going on before us almost every day) before the split but after the secession had become a *fait accompli* things would take a more reasonable course. Democratic and rights-respecting beliefs are a deep part of the culture of both nations. And, while it is reasonable to expect that things would get a bit inflamed, still Quebec would keep the corridors open between Atlantic Canada and Ontario and Canada would not drive a vindictive bargain against Quebec and would protect the rights of the Francophones outside of Quebec. Both sides would see the necessity of future co-operation and would not make unreasonable and grossly unfair demands that would undermine the basis for future co-operation and give them a bad international reputation as well.

Perhaps the above is too whiggish a view of things but there are historical precedents among reasonably well off countries with long traditions of constitutional democracy and with reasonable levels of education. There was bitterness on both sides when Denmark and Iceland split but they managed it in a reasonable way and now they are good neighbours. [25] Canada and Quebec are not — or at least should not be — significantly different in this respect.

Still, it might be thought that I am not here looking at the world in a realistic way. Quebec is a society not only with Francophones (83%) and Anglophones but other cultural divisions as well. There are Native peoples, many Blacks from Africa and the Caribbean, Jews and other immigrant populations (some longstanding) from Italy, Portugal, Spain, Greece, Latin America, India, Pakistan, Vietnam, and China. They all have a strong sense of identity as distinct peoples. There are, as elsewhere, where the situation is similar, tensions and conflicts between groups. It is not at all like Iceland and Denmark or even France and Spain with the Catalonians and Basques. Quebec society is a varied society (particularly in Montreal which has half the population of Quebec) with the tensions that go with being varied.

Some will think that, given that circumstance, I do not give sufficient attention to the phenomena of Balkanisation. If a nationalist movement springs into existence, creating a new state, then, the claim goes, new nationalist movements will also spring up, sometimes almost immediately, within this new state e.g., the continuing fissions in what was once Yugoslavia and the Soviet Union. It is, however, also to be expected that as time goes on the situation will become somewhat more stable if things are finally actually split up along national territorial lines *and* where the minorities lacking any viable claim to territoriality come to be treated as equals. In places with a history of prejudice and violent repression (Yugoslavia and the Soviet Union) this will probably not obtain and the continued splinterings will not be accomplished and sustained in a peaceful manner. In other places (Romania, Turkey, Iraq) where state power has been able so far to, more or less, contain the splintering, the cost in violence has also been great. But it is not the continued divisions themselves which must be violent; it is the background of hatred, domination, repression and violence that ensures that the splinterings will be violent. In none of these places is optimism about the future warranted.

However, in the few examples we have where there have been splits in countries with a long tradition of liberal democracy such bad things have not happened. (The examples are few probably because where there are liberal democracies the pressure for secession will be less strong, though it can and does happen.) Iceland, as I remarked earlier, split from Denmark, Norway from Denmark and Sweden, and a Swiss canton (partly German-speaking and partly French-speaking) split into two separate cantons. In all these cases there was friction, bitterness and resistance but little violence. The United States is not a

disconfirming instance or a counter-example for the South was both in the Union and a slave-owning society and, given this, the United States *then* had no more claim to being a constitutional *democracy* than does South Africa now. Secession was put down violently but the state that did the putting down was not a constitutional democracy (accepting as a legitimate part of itself a slave-owning segment) nor was the society that sought to secede.

It is agreed on by all sides within Canada that even if Quebec declares unequivocally for independence it will be allowed to leave Canada without a fight. A United States style civil war or any use of armed forces is not a live option. If, following Quebec's secession, the Native people's or the Anglophones in regions of Quebec which are historically Anglophone should unilaterally declare independence from Quebec in territories where they have long been the predominant population, and the rights of the minorities in these territories are protected, then forcefully preventing the secession would be wrong. In both cases the forceful binding of peoples together is evil.

Where the units would, after the secession, be very small, secession might be thought to be impractical, but that is another matter from what was discussed above. In looking at this we should keep in mind that some very small states have been stable and successful — Iceland most notably. There will, of course, be some threshold, experientially to be established, where the unit would be too small to be practically viable. But that, to a certain extent, would vary from context to context, from epoch to epoch. The threshold of inviability, for a given time, would have to be discovered by the people themselves as they seek to establish the best feasible forms of their association. The key point here, for our purposes, is to see that this does not pose a problem of moral principle, however difficult in certain circumstances the pragmatics may turn out to be. Could, for example, the Faeroes or Prince Edward Island form a feasible nation-state?

The desire of a people to be *mâitre chez nous* is normally very strong and, I have argued, their being allowed to act on that desire should be a right and that right can be properly exercised where the conditions of territoriality I characterised are met and where minority rights are protected. There have, with the emergence of nationalisms, been terrible violations of minority rights, but that has been equally true in multinational states. And the places where the emerging nationalisms have been rights-violating, or at least extensively rights-violating, were where the new nation states emerged from multinational states which had a long and often ferocious tradition of rights violations. There is no good reason to believe that where we have the wider authority of multinational states that there will be a better protection of minority rights than in states which express the national aspirations of a people. Being multinational does make the state ecumenical.

Some think that Quebec nationalism and indeed all nationalisms are particularisms that threaten the universalism that both Western liberals and socialists (sometimes they are the same) have fought for since the Enlightenment. I have argued in Sections II and III, roughly following Berlin, who in turn follows Herder, that it is feasible to have both particularism and universalism in a coherent combination and that indeed both are essential for maximum human flourishing. There are, of course, nationalisms with barbaric and vicious particularisms that, with conceptions of 'ethnic cleansings' and the like, turn their backs on everything that the Enlightenment stands for. But people with a strong sense of national consciousness and a commitment to their nation (Max Weber, Richard Rorty, David Gauthier, and C. B. Macpherson, for example) need not be like that and have not always been like that. The above four certainly were both nationalists and in the tradition of the Enlightenment liberalism. Herder, as we have seen, shows how we can and should combine

particularism and universalism just as there are communitarians and neo-Aristotelians (e.g., Michael Walzer, Charles Taylor and Martha Nussbaum) who coherently combine particularism and universalism.

Québécois intelligentsia for the most part make such a combination. Quebec was once Catholic, traditional, rural, isolated, and a French-speaking society. Now only the last characteristic survives. In an earlier time when much of the Western world was anti-semitic, so was Quebec. Prior to 1945, some 'Quebec intellectuals, inspired by the blood-and-soil nationalism of Frenchmen like Charles Maurras, reviled Jews as cosmopolitan merchants who threatened the rural and religious virtues of the Québécois.' [26] But nothing like this obtains now among Québécois intellectuals. Mordecai Richler's claim that Québécois nationalism is inherently and dangerously anti-semitic is false. [27] There are, of course, bigots in Quebec — both Francophone and Anglophone — but there are bigots in any society. Quebec's track record here is surely no worse than that of English Canada, France, the United States, or the United Kingdom. Francophone intellectuals, while often (though certainly not invariably) deeply committed to Quebec independence, are standardly also cosmopolitan and internationalist in attitude. This is true of most of the leadership of the *Parti Québécois*. Jacques Parizeau's doctorate — to take, as an example, the current leader of the party — is from the London School of Economics. Francophone professors (including philosophers), much more than their Anglophone counterparts, are standardly bilingual, not infrequently fluently so, and often have studied in universities in the United Kingdom, the United States, English Canada and sometimes, and not infrequently in addition, in Germany or Italy. The range of books, films and the like is very varied and very international in Montreal and Radio Canada's programming, which reaches the whole of Quebec, is sophisticated and internationalist. In a society (rather like European societies in this respect) where intellectuals have a somewhat greater public voice than in English-speaking societies, the conceptions, beliefs and attitudes of Francophone intellectuals trickle down to the rest of the society and influence, in some sectors of the society more than others, the rest of the society. (*Le Devoir*, a Montreal daily, for example, has many academics of varied backgrounds repeatedly writing for it.) There is, in fine, no sound reason for believing that an independent Quebec would be chauvinistic and unmindful of minority rights or turn its back on the Enlightenment, trying to reverse modernity.

More generally, where nation states have a long and stable (when not attacked from the outside) democratic tradition, where high levels of economic development obtain and there is a reasonably good educational system, there is no reason to believe that breaking into smaller nation states, reflecting different national identities, should lead to trampling on minority rights or to an inward looking isolationism and ethnocentrism. That there would be such rights-respecting practices would be true in the United Kingdom, Belgium, Czechoslovakia, and Finland should they break up along lines of more particular national identities. To fear such fissions in sturdily democratic societies is unjustified.

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Finally, it might be asked, 'What has what you have been arguing to do with Canada's constitutional crisis? Why talk of secession and independence when what is at issue is what new constitutional arrangements, if any, should be made between Quebec and the rest of Canada?' I have put the stress where I have because I think the very conceptualising of the

issue as a constitutional crisis is, particularly from the point of view of Quebec, a misleading and mistaken way of characterising what is going on. Some think that it is a foregone conclusion that Quebec will separate and take an independence route. If that is so, there is no constitutional crisis for Quebec. New nation-states are plainly not bound by old constitutions, either their own constitutions as provinces or colonies prior to their becoming an independent state or by the constitution of the state they are seeking independence from. Where the situation is not a revolutionary one, they must not, in seeking and sustaining independence, violate the norms of international law, but that is a different matter. Their task is to forge a new constitution of their own designing and not to be concerned with constitutional matters of the nation-state they are seeking independence from, though they must be operating within the parameters of what a constitutional democracy can do.

The same considerations remain in force if the core debate within Quebec is over whether to become an independent nation-state where this is not a foregone conclusion but a genuine option. Only when that question is settled will the constitutional question come to the forefront and then only if settled in a certain way. If Quebec opts for independence there is no constitutional question but only issues of bargaining and fair-dealing between Quebec and Canada. (I assume that Canada, unlike the North during the American Civil War, will not try to force a continued union.)

If Quebec rejects the independence route, seeking to remain in Canada but with an altered status, then constitutional questions come to the fore. But that awaits the settlement of the primary issue, namely, the issue of independence.

The above, as far as I can see, only needs qualification in the following way. Some Québécois might wish to hold their independence option in abeyance until they can see what new constitutional arrangements the other provinces and the federal government would be willing to accept and whether they would be more to the liking of a Quebec seeking a greater autonomy than what is possible under present arrangements. If that is so, then constitutional questions are front and centre. I have assumed, perhaps mistakenly, that that is not so and that the issue is essentially whether Quebec should seek to be a sovereign state or not. That, of course, is a political hunch on my part. If my assumption, based on that hunch, is correct, then characterising the crisis as a constitutional crisis is a mistake. I have in the last sections of this essay reasoned in accordance with this assumption.

It is not for me, a newcomer to Quebec and rootless intellectual at that, even to suggest to Québécois what they should do. I have only been concerned to argue that if Québécois take the independence route they can do so without violating anyone's rights or doing anything else that is either unjust or in any other way morally or prudentially untoward. [28]

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NOTES

[1] I have articulated my account of an appeal to considered judgments in reflective equilibrium in my *After the Demise of the Tradition* (Boulder, CO: Westview Press, 1991), 195–248 and in my *Equality and Liberty: A Defense of Radical Egalitarianism* (Totowa, NJ: Rowman and Allenheld, 1985), 13–44. See also my 'On Needing a Moral Theory: Rationality, Considered Judgments and the Grounding of Morality', *Metaphilosophy* 13 (Apr 1982), 97–116 and my 'Sticking with Considered Judgments in Wide Reflective Equilibrium', *Philosophia* 13, nos. 3–4 (1985), 316–21.

[2] JOHN RAWLS, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 19–21, 48–51, 577–87 and

- JOHN RAWLS, 'The Independence of Moral Theory', *Proceedings and Addresses of the American Philosophical Association* XLVII (1974/75), 7–10. See also NORMAN DANIELS, 'Wide Reflective Equilibrium and Theory Acceptance in Ethics', *Journal of Philosophy* 76 (1979) and his 'Reflective Equilibrium and Archimedean Points', *Canadian Journal of Philosophy* 10 (March 1980). This methodology has occasioned widespread resistance in the philosophical community. Some of the more perceptive criticisms come from such different sources as Jean Hampton and Joseph Raz. See JEAN HAMPTON, 'Should Political Philosophy be Done Without Metaphysics?' *Ethics* 99, no. 4 (1989), 791–814 and JOSEPH RAZ, 'The Claims of Reflective Equilibrium', *Inquiry* 25, no. 3 (1982), 307–30 and his 'Facing Diversity: The Case of Epistemic Abstinence', *Philosophy and Public Affairs* 19, no. 1, 3–46. I have tried to counter such arguments in my *After the Demise of the Tradition*, 231–48 and in my 'Rawls and the Socratic Ideal', *Analyse & Kritik* 13, no. 1 (1991), 67–93.
- [3] See Rawls on justification in *A Theory of Justice*, 577–87. See here as well his crucial later essays. JOHN RAWLS: 'Kantian Constructivism in Moral Theory', *Journal of Philosophy* 77 (1980), 515–52; 'The Idea of an Overlapping Consensus', *Oxford University Journal of Legal Studies* 7 (1982), 1–25; 'The Domain of the Political and Overlapping Consensus', *New York University Law Review* 64, no. 2 (1989), 233–55; and 'Justice as Fairness: Political not Metaphysical', *Philosophy and Public Affairs* 14, no. 2 (1985), 223–51.
- [4] Rawls in the essays listed above makes it clear that it is not part of his project to derive morality, or any part thereof, from rationality. The spectacular failure, as the critiques of their accounts have brought out, to make such a derivation by Alan Gewirth and David Gauthier, sophisticated, determined and careful as their accounts are, should signal to us what we might have guessed at the outset — that such projects are impossible. See my *Why Be Moral?* (Buffalo, NY: Prometheus Books, 1989), 245–68 and my 'Can there be Justified Philosophical Beliefs?' *Iyyun* 40 (1991), 235–70.
- [5] There have, of course, been stateless societies. (The Iceland of the Sagas was stateless.) But under our circumstances states are perfectly unavoidable.
- [6] J. G. HERDER, *Sämtliche Werke* (Berlin, 1877–1913). Herder argued that the *Volksgeist* did not require any identification or defence of a favored people or of nationalism or of religion. To realize, he further argued, that some people are our people (the people of the agent speaking) need not, and indeed should not, lead to the conclusion that these people are better or that their way of life is superior. We identify with them, they are our people, but we need not and should not conclude that they are a superior people. Herder is not Fichte, let alone a National Socialist.
- [7] ISAIAH BERLIN, *The Crooked Timber of Humanity* (New York: Alfred A. Knopf, 1991), 248.
- [8] G. A. COHEN, *History, Labour and Freedom* (Oxford: Clarendon Press, 1988), 137–46.
- [9] BERLIN, *The Crooked Timber of Humanity*, 251.
- [10] *Ibid.*
- [11] *Ibid.*
- [12] See G. A. COHEN, *op.cit.* and KAI NIELSEN, 'Undistorted Discourse, Ethnicity, and the Problem of Self-Definition' in WINSTON A. VAN HORNE, ed., *Ethnicity and Language* Vol. 6 (Milwaukee, WI: University of Wisconsin System, 1987), 16–36 and KAI NIELSEN, 'Cultural Identity and Self-Definition', *Human Studies* 10 (Oct 1987), 383–90.
- [13] BERLIN, *The Crooked Timber of Humanity*, 245. See as well ISAIAH BERLIN, *Vico and Herder* (London: Hogarth Press, 1976), xiii–xxvii, 145–216 and ISAIAH BERLIN, *Against the Current* (New York: Viking Press, 1980), 252–86, 333–55. For powerful but somewhat different arguments that an appeal to humanity is not enough, see RICHARD RORTY, *Objectivity, Relativism and Truth* (Cambridge: Cambridge University Press, 1991), 21–34, 175–222.
- [14] Berlin brings out, clearly and forcefully, this side of Herder. See BERLIN, *Vico and Herder*. For a claim that Berlin has made Herder more liberal than he in fact is see CONOR CRUISE O'BRIEN, 'Paradise Lost', *New York Review of Books* XXXVIII (April 23, 1991), 52–60.
- [15] COHEN, *op.cit.*, 139.
- [16] *Ibid.*, 140.
- [17] There is a kind of post-modernist sociological objection that remains troubling for my own account. In our 'postmodern era,' it might be said, where more and more people move about, live in many places, where people with very diverse backgrounds come together to form couples, we get a melange (perhaps sometimes with hybrid vigour) where people may not know who they are, may not, that is, have a clearly delineated social-identity and may be none the worse for all of that. Indeed they may even be better off. I think this needs to be looked at closely and, of course, empirically. What I think should be said is that these people are not without a social-identity but that they have a more complex one that is not nearly as sharply defined as is normally the case. (Think here particularly of the children of such couples.) A key question is whether they

- need to be able to focus it to escape alienation. I think we should be agnostic about that. I am unable to bring my own social-identity sharply into focus and yet, unless I deeply deceive myself, I do not suffer from that. Perhaps my commitment to the Left is an *Ersatz* replacement of local attachments, shielding me from untoward psychological effects of not having a clear *local* habitation. But that that is so is anything but clear and I, of course, am a token of a type.
- [18] STEVEN LUKES, *Essays in Social Theory* (London: Macmillan Press, 1977), 177–86 and MAURICE MANDELBAUM, ‘Societal Facts’ in JOHN O’NEILL, ed., *Modes of Individualism and Collectivism* (London: Heinemann, 1973), 221–34.
- [19] GEORG HENRIK VON WRIGHT, *The Varieties of Goodness* (London: Routledge and Kegan Paul, 1963), 118.
- [20] MAX BLACK, ‘The Gap Between “Is” and “Should”’ in W. D. HUDSON, ed., *The Is/Ought Question* (New York: St. Martin’s Press, 1969), 99–113. Moreover, even if the above argument is in some way mistaken and social-identity is only instrumentally good, that is surely not nothing.
- [21] It could be the case that a people, as the people coming to Iceland did, will come to an utterly unoccupied part of the world and form there a state or a nation that answers to their cultural aspirations. But this is plainly not relevant to present day circumstances where all the viable land is occupied. A dispersed people now could only form a nation-state by replacing a people already there and that is always morally problematic.
- [22] ALAN BUCHANAN, *Secession* (Boulder, CO: Westview Press, 1992).
- [23] Susan Moller Okin brings out forcefully the ways in which, in the world we know, no-fault divorces tend to harm women and she knows what needs to be done to remedy this. I take it she is not saying that no-fault divorces should be stopped but that that progressive shift in divorce law, while an improvement over what we had before, still has very grave defects. SUSAN MOLLER OKIN, *Justice, Gender and the Family* (New York: Basic Books, 1989), 134–86.
- [24] Reasonableness, as distinct from rationality, is directly a moral quality. I have utilised the distinction, as have Brian Barry and John Rawls. See my ‘Distrusting Reason’, *Ethics* 87 (Oct 1976), 49–60. For the classical essays here see W. M. SIBLEY, ‘The Rational Versus the Reasonable’, *Philosophical Review* 62 (1953), 554–50 and R. S. PETERS, ‘The Development of Reason’ in S. I. BENN and G. W. MORTIMORE, eds., *Rationality in the Social Sciences* (London: Routledge and Kegan Paul, 1976), 299–31.
- [25] Things were not always so civilised in Scandinavia. In 1520 the army of King Christian II of Denmark massacred a large number of inhabitants of Stockholm.
- [26] PAUL DELANY, ‘Vivre comme chien et chat’, *London Review of Books*, Vol 14, no. 16 (August 1992), 12.
- [27] MORDECAI RICHLER, *Oh Canada! Oh Quebec! Requiem for a Divided Country* (London: Chatto, 1992).
- [28] A shortened version of this prayer was presented at the Colloque ‘Une nation peut-elle se donner la constitution de son choix?’ on May 12, 1992 at Association Canadienne-française pour l’avancement des sciences at the Université de Montréal.