

The Special Committee for Canadian Unity Le Comité Spécial pour l'Unité Canadienne



At Last the Moment of Truth

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Let there be light. The moment of truth, long delayed, is now upon us. And the issue is capital: it could literally determine whether, in the long run, Canada is to live or die.

Monday, March 20, Québec Superior Court begins hearings on the constitutional challenge against Premier Lucien Bouchard's Bill 99, adopted in 2000, that declared Québec's unilateral right to secede from Canada while keeping its present territory intact, with no condition imposed by the Constitution of Canada or any consideration for the rights of Québec's partners in the federation – the federal government and the other provinces – or of Canadian citizens.

On the face of it, Bill 99, titled *An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State*, contradicts the doctrine laid down by the Supreme Court of Canada in its 1998 response to the reference on the secession of Québec. The court laid down that secession was not a right, but only a possibility. It spelled out four principles or conditions for Québec to secede legally. First, the principle of democracy required that both the referendum question and the people's answer be clear. Second, the rule of law required that secession be carried out through an amendment to the constitution. Third, the federal principle required that, to dismember the federation, the consent of the other provinces must be obtained. Finally, the amendment must include an agreement that respects the rights of Québec's aboriginals and minorities.

Bouchard's Bill 99, on the contrary, declared: "The Québec people has the inalienable right to freely decide the political regime and legal status of Québec. ... The Québec people, acting through its own political institutions, shall determine alone the mode of exercise of its right to choose the political regime and legal status of Québec. ... No other parliament or government may reduce the powers, authority, sovereignty or legitimacy of the National Assembly, or impose constraint on the democratic will of the Québec people to determine its own future."

So Bill 99 declares that Québec can hold a referendum on secession and set all its terms including the question. A bare majority would confer the mandate to secede. Québec would then retain its territory intact despite opposition from Aboriginal nations. So the Supreme Court's conditions become a dead letter.

Prime Minister Jean Chrétien, who had failed to defend the constitutional order during Jacques Parizeau's 1995 referendum campaign on unilateral secession, now failed to challenge this

revolutionary legislation. So a few citizens took up the cause, led by the former leader of the now defunct Equality Party, Keith Henderson, supported by the Special Committee for Canadian Unity. The case dragged on for years.

All changed in October 2013 when Stephen Harper's government announced its intervention to attack Bill 99's constitutionality.

Le tout Québec was scandalized. All parties in the National Assembly adopted a unanimous resolution denouncing federal intervention. It began: "The National Assembly condemns the intrusion of the Government of Canada into Québec's democracy..." Then-Premier Pauline Marois declared: "The people of Québec have the right to self-determination and they alone have the power to choose their destiny." Opposition leader Philippe Couillard – now Quebec's premier – insisted that "the future of our people will always be decided by the Québécoises and the Québécois."

Since the Quiet Revolution, all Quebec premiers, all major provincial political parties have maintained that the Province of Quebec has an unconditional right to secede if that is the will of a majority as expressed in a referendum. No country on earth accepts so subversive doctrine and, in Canada, the Supreme Court has rejected it as unconstitutional.

The time has come to settle the issue once and for all. With next week's hearings, history is now in the making.