THE PHOENIX AND THE TURTLE

BY JOSÉE LEGAULT

Reason, in itself confounded,
Saw division grow together,
To themselves yet neither Simple were so well compounded.
W. SHAKESPEARE, THE PHOENIX AND THE TURTLE

The Reference to the Supreme Court on the right of Quebec to separate unilaterally from Canada has been postponed until February 1998, and could possibly lead to the dismemberment of Quebec’s territory along ethno-linguistic lines.

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well be held up even further due to delays incurred by the recent nomination of a new judge of the Court. In fact, it is entirely possible that the Court’s decision will not be handed down before the next provincial election. The result is that as long as there is no decision, the whole debate surrounding this Reference, at least in Quebec, will be mainly a concern for experts. For most Quebeckers, the issue will remain highly abstract and will continue to create uncertainty about the process leading to Quebec’s independence. Clearly, the postponement of the Supreme Court decision is no small event.

FEDERALIST GAINS WITH PLAN B

In the meantime, given its own silence on most issues pertaining to the so-called “Plan B” of the federalist forces, the Quebec government is in danger of losing the battle of public opinion on the process leading to independence following a “Yes” vote. This, also, is no small event and its lack of a winning strategy has been confirmed in a series of well-publicized polls published by Quebec’s print media.

For instance, in a SONDAGEM poll published on September 20 in Le Soleil, 55% of respondents agree that Lucien Bouchard should not hold another referendum if he were re-elected. In the light of the Calgary declaration on the “unique society”, a whopping 60% say that Quebec should give yet another chance to renewed federalism.

In another SOM poll published in L’Actualité, 59% believe that partition is a real risk following a majority “Yes” vote; 50% do not trust the Bouchard government to maintain the integrity of Quebec’s territory; 60% think partition is a right but only 46% say that Quebec has a right to separate unilaterally. Finally, only 34% would give the Bouchard government their unconditional support for sovereignty.

UNDERSTANDING PLAN B

One of the keys to [Plan B’s] “success” is that it gives the appearance of not denying the possibility of Quebec becoming independent. What this discourse pretends is that in the event of a “Yes” vote, a unilateral declaration of independence by Quebec’s National Assembly would create “chaos”, “anarchy”, and possibly lead to the dismemberment of Quebec’s territory along ethno-linguistic lines.

Once again, a growing number of Quebeckers appear to have been influenced by the federalist arguments regarding partition, the role of the federal government following a “Yes” vote, and the perceived importance of the Reference to the Supreme Court.

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So the alternative, according to the new federalist discourse, is that separation has to occur within what Ottawa calls the “rule of law”. In effect, it consists of a complex set of legal procedures requiring the PQ to submit the democratic will of the Quebec people to the SCC for the green light to be a sovereign people. It is only if these conditions are met that Ottawa warrants that neither “chaos” nor “partition” will follow.

This is why the federal government has decided to go to the Supreme Court. Here its aim is anything but “judicial”; it is purely, solely, and unequivocally political. The objective is to create the illusion that, somehow, sovereignty could be attained within a “legal”, “constitutional” framework. And if the SCC refuses Ottawa’s “friendly offer”—nudge, nudge, wink, wink!—Quebec would be breaking the rules. By contrast, the federal government would be required to uphold the “peace, order and good government” of Canada. In the eyes of the international community, Ottawa knows that appearances are everything!

An astoundingly clear example of this new federalist discourse appeared in a paper presented last May at the annual conference of the Canadian Bar Association by constitutional expert Peter Hogg: “If Quebeckers do decide to separate, there are overwhelming advantages for them, as well as for the rest of Canada, to proceed in compliance with the rule of law. A secession in accordance with the rule of law...
would minimize the confusion, the economic damage, and the social disorder that would inevitably accompany a unilateral declaration of independence. A secession in accordance with the rule of law would achieve speedy international recognition that is unlikely to be granted on the basis of a unilateral declaration of independence. A secession in accordance with the rule of law would be a consensual one, in which the many difficulties of disentangling communities that have lived together in harmony for so long would be solved by admittedly painful compromises reached by agreement between Quebec and Canada.

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Listening carefully to this discourse, one almost gets the impression that Ottawa is trying to accommodate the separation of Quebec by making it "legal", while knowing full well that no Quebec government would ever accept such a scenario.

**WHY PLAN B?**

Why is all of this happening? The answer, of course, is that the sovereignty option almost won the last referendum and, should the Bouchard government be re-elected, it is very likely that it could win the third one. In this context, "le nerf de la guerre" becomes what pollsters refer to as "soft" nationalism or that part of the Quebec electorate that is neither strongly sovereignist nor strongly federalist. Unable to offer Quebecers any kind of genuine renewed federalism, the federal government has come up with a strategy that aims solely at creating the impression that a "unilateral" declaration of independence would destabilize Quebec society.

**Should Plan B arguments continue to dominate public discourse and the Supreme Court eventually lends its judicial "credibility" to the federalist cause, Ottawa knows that support for sovereignty will not be high enough for the Parti Québécois to go ahead with a third referendum. The last thing the PQ wants is to go down in history as the party that led Quebeckers through three consecutive defeats within twenty years on this fundamental issue.

Of course, all of this could change overnight should the Quebec government mount an efficient counter-offensive that galvanizes Quebec's public opinion. It has done this in the past and it may be helped by the Calgary declaration promising Quebec eventual constitutional change. There is a better-than-fifty-percent chance that English Canadian support for the Calgary declaration will fall apart as it did following the Charlottetown agreement. There are so many conflicting agendas that are opposed to any kind of accommodation with Quebec that this dynamic alone may destroy even this extremely modest package.

The Supreme Court Reference is part of a political strategy that looks to destabilize not only the Quebec government but the very process that the PQ considers could lead to the creation of an independent Quebec. And that's no small event.

Josée Legault is a political scientist, author, and a political columnist at Le Devoir.

**THE CHALLENGE FOR SOVEREIGNISTS**

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