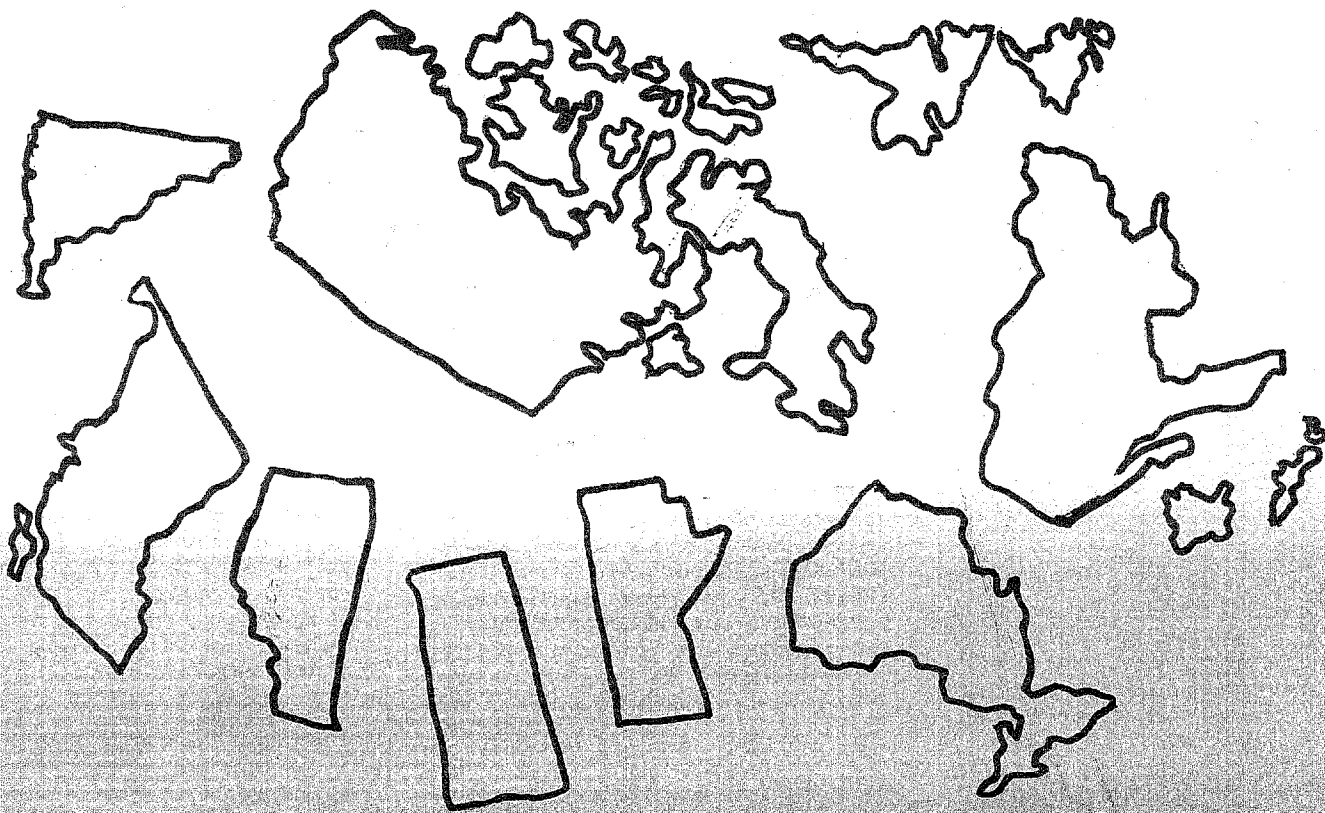


Broadside

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Susan G. Cole

Deconfederation

by Eve Zarembo

The Quebec referendum is over: federalism won; Canada is safe. Right? To which I say: so what?; which federalism?; and, not at all.

I have always been highly ambivalent about Quebec becoming a separate nation-state. Not because I have ever doubted that Quebec is a nation. It has a viable indigenous culture, and in that respect is not and never has been 'a province like the others'. But every nation needn't be a separate state. My ambivalence arises from a number of factors, among them a general lack of faith in the efficacy of statehood. I am highly sceptical of the proposition that setting up yet another state will somehow solve problems. In the case of Quebec, it seems to me that its culture and language flourish without 'sovereignty' and there is no evidence to suggest that national control of the economy is likely to increase under 'association' (or even without it) by more than some window dressing.

The drive towards further break-up of old empires is perfectly understandable on emotional grounds. Unfortunately, lack of real popular commitment to economic independence makes these new states all the easier for new imperialism to gobble up. Without a strong economic and cultural basis the continuing fragmentation of the world into weak and mutually hostile states appears to me to be regressive.

On this score my concern is not only, or even primarily, for Quebec. It's for the rest of us, Canadians outside Quebec. My fear is that Quebec separation would remove the last remaining bulwark against the centrifugal force affecting all parts of Canada. Remove the key-stone which is Quebec, and

Canada might well fly apart.

At specified intervals during the next year or so we will be privileged to witness constitutional conferences at which our masters will be deciding the future of Canadian federation and incidentally our fate. We will be anxious spectators to the muscle-flexing of nine anglophone provincial bosses protecting and expanding their power over their fiefdoms. We will see the federal government give up some of its powers piece-meal to men who will use it no more wisely and even less consistently and equitably. Surely our provincial leaders are no improvement on federal politicians. They provide no reason to believe (or even hope) that a fragmented Canada will be any better, better off or better governed.

So, selfishly, I am glad that Quebec is still part of our political structure. With Quebec out of Confederation I can envisage the following scenario...

It starts with a rump federal government being controlled by non-federalists if not anti-federalists: government too weak to provide any realistic opposition to the total dismemberment of Canada. There would be no overall power to mediate the inevitable confrontation between Central Canada — where the people are (a fact seldom noted these days), and Western Canada, where the scarce resources are. Without a concept of communality greater than our respective narrow self-interests, why would we stay together? My scenario assumes that the men who decide these things are at bottom motivated only by money and the sort of power that money will buy.

A separatist case for the West is simple. Classic Adam Smith capitalism calls for buying cheap and selling dear. Western Canada has oil, natural gas, coal, potash, uranium, timber, wheat, fish... In a world of scarce resources, the old saw about hewers-of-wood and drawers-of-water takes on a very different, very affluent cast. An economic colony need not be poor. Japan, rich yet lacking natural resources of its own, is avidly seeking to secure supplies. It will pay top dollar for everything Western Canadians care to draw or hew. With this wealth Westerners can buy all the manufactured goods and exotic luxuries on the world market at the lowest prices going. Unless cut short by nuclear or environmental disaster, Western Canadians, unencumbered by the price of federation, can live off the fat of the land for a generation, maybe more.

This may sound far-fetched. But is it? Our resources have been for sale for so long that there is no historical or psychological reason for any Canadians to turn down a 'good deal.' If Canada as presently constituted has had problems building an identity strong enough to avoid absorption, what chance would any fragment of Canada have on that score?

Should Canada fragment, the Maritimes would probably turn to the USA. Connections with New England states are already strong. Perhaps Americans could be persuaded to accept them into a common market and eventually grant them statehood. Maritime population and industrial base are too small to markedly affect the power dynamics within the

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Common law, from page 7

Children born in a common law relationship are not treated differently from children born inside a legal marriage. The Children's Law Reform Act passed in 1977 stated that "...for all purposes of the law of Ontario a person is the child of his or her natural parents and his or her status as their child is independent of whether or not the child is born within or outside of marriage." The Act is, however, limited to laws passed by the provincial government and therefore children born outside a marriage may be treated differently by the federal government. In fact, they are treated differently by both the Department of Employment and Immigration and Revenue Canada. The Ontario Act does ensure that all children are entitled to support from both parents and that parents have equal rights with respect to their children.

Custody of children born outside of marriage is no longer as straightforward as it once was. Either parent may not claim custody and the court will be concerned only with what is in the best interests of the child. Thus a natural father may be awarded custody over the birth mother if he is able to demonstrate that, in the best interest of the child, he should have custody. Where one partner is given full custody, the other will normally be given access rights regardless of the nature of the parents' relationship. If, at birth, the child is registered as the natural father's child and the child is

given his father's last name, it may be difficult for the mother to effect a name change without the father's consent even if the father is not meeting support obligations or seeing the child. Similarly if the parent wishes to have the child adopted by the legal spouse, she or he will have to seek the natural parent's consent. The general tone of the legislation is to recognize the mutual rights and obligations of both parents for their children.

Spouses who live common law and wish to acknowledge their mutual responsibilities and obligations to one another can draw up a legal contract according to the needs of their relationship. Provisions regarding the ownership of assets will be treated in court in the same manner as any other contract. A contract can provide protection for spouses in the event of a breakup and may be the most logical method of ensuring that later antagonism does not prevent an equitable settlement.

There are advantages to a common law relationship if both parties are self-supporting. Separation can occur without the need for legal action. Parties are entitled to take out of the marriage what they put in and thus a frugal spouse is not penalized for the extravagance of a more carefree spouse. The tax department also provides a benefit to nonmarried spouses — single parents can claim one child as the equivalent to a spouse and thus take a large tax deduction which is unavailable to working married spouses.

The decision whether or not to marry is of course an intensely personal one and is made for factors which have little to do with economic well-being, but the individual who is deciding to live common law should be aware of the limits of the common law relationship. Where that person will be totally financially dependent upon the good will of the other party, special contract provisions should be considered.

NOTE: Copies of the Family Law Reform Act can be obtained by writing to the Ministry of the Attorney General for Ontario or from the Government of Ontario Bookstore, 880 Bay Street, Toronto. The Government Bookstore also stocks copies of the Succession Law Reform Act and the Children's Law Reform Act at prices from \$.75 to \$2.

CASE HISTORIES

CASE NO. 1 — Ms. X sought legal assistance because her common law spouse was refusing to work and was beating her and the children. Although both spouses had signed the lease, Ms. X had been the only one to make rent payments for the last six months. The apartment was a desirable one with reasonable rent, close to Ms. X's work and near the children's school. She wanted the court to order her husband to leave — she would continue to assume responsibility for the rent and even sign a new lease.

RESULT: Ms. X cannot take court action to order her spouse out of the apartment. Only married spouses can bring an action for exclusive possession of the matrimonial home. Where a couple is living common law, they are in the same position as any other tenants. Each spouse is equally entitled to stay.

CASE NO. 2 — Ms. R and Mr. W lived together for seven years. During that time, they had two children. Mr. W was close to both his sons and was very involved in their care. Both he and Ms. R worked full time so the children were in day care. When the couple decided to separate, Mr. W commenced a custody action for the children, who were in the care of their mother. When Ms. R came to see us she was convinced that her common law spouse had no rights to the children and she was reluctant to go to court.

RESULT: Despite the fact that Ms. R is the birth mother of the children and is capable of caring for them, Mr. W has an equal right to custody of their children. The court is only concerned with what is in the best interests of the children. If it feels that they will be better off with their father, that order can be made, despite the fact that the mother is willing and able to care for them.

CASE NO. 3 — Ms. S lived with Mr. J for over twenty-five years until his death. Although he had always promised to provide for her, Ms. S found herself left out of the will. Since she had never worked outside of the home, and since the couple had always needed all of Mr. J's pension benefits to live comfortably she is concerned about her rights after his death.

RESULT: Despite the length of their relationship, Ms. S will not be entitled to company pension benefits under most pension plans. Unless the plan specifically allows the pensioner to allocate the beneficiary, she will not be able to make a claim. If the policy is for a spouse, only a legally married woman will be able to collect. If they were living together at the time of his death, she will be entitled to claim survivors' benefits from the Canada Pension Plan.

CASE NO. 4 — Ms. T and Mr. F lived together for over twenty-five years. During a part of that time, Mr. F worked as the building superintendent for a large company. Although the company would only hire married couples and despite the fact that Ms. T did help out with the work, the payment was made out only to Mr. F. While the couple worked for this company, they purchased land from a brother of Ms. T. The price of the land was very low since the brother wished to benefit his sister. The couple built a cottage on the land. After they separated, Mr. F refused to give Ms. T any rights in the cottage, which was solely in his name. When she came to see us, she was outraged that her common law spouse now had a large cottage up on her family's traditional vacation spot. She felt that in view of her long relationship and her work she should be entitled to a share of the cottage.

RESULT: Since Ms. T could not prove that part of her husband's salary had in fact been earned by her labour and since she made no financial contribution to the purchase of the cottage, she has no legal right to a share of the value of the cottage. Common law spouses stand in exactly the same position to one another as strangers and the court has not recognized the fact of the relationship as giving the partners any special rights.

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Since women first obtained the right to vote and to run for office, the number of women seeking federal office rose from four in 1921 to 183 in 1980. But the number of women who won seats in those 59 years rose only from one to 14. The dismal prognosis is that, at this rate, we will need another 842 years to achieve equal representation at the federal level.

Under our democratic system, elected representatives, regardless of their gender, are responsible to all their constituents. Yet the record shows that they have regularly failed to respond in an adequate fashion to those concerns which determine the lives of more than half of those they are elected to serve.

Women's full participation in the political arena will bring a new perspective and a new direction to government in general.

The FEMINIST PARTY OF CANADA • PARTI FEMINISTE DU CANADA is the political voice of our time. If you wish to participate in the formation of this national party, please complete the following and return it to our address.

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•Deconfederation, from page 1

American union.

Newfoundland is more likely to revert for a time to a state of semi-independence based on its British connection and its oil reserves. Most of its energies would be consumed in squabbling with Quebec over Labrador.

Which leaves Ontario, the Heartland province as it likes to think of itself, and the place everyone else loves to hate. This is where the people are. Half of all English-speaking Canadians live in Ontario. The population of Toronto alone is greater than all of Alberta or British Columbia. With Canada in dissolution Ontario loses protected markets for its manufacturing industry and its central role as the financial and service hub of an independent country. It probably stagnates slowly; the long established Wasp element emigrating to other parts of the continent, some others back to Europe. The poor and non-European would most likely remain, having

nowhere better to go. Perhaps they could find the energy and vision to found a new nation. But how likely is that, given the common language and drawing power of neighbouring America? Ontario could try to negotiate statehood or at least territorial status. Maybe Americans could be persuaded to absorb within their body politic millions more urban, industrialized people demanding jobs, social programs and services.

At this point in my scenario I like to get creative. Let's suppose that Ontario and Quebec (which is still there, right next door and has problems of its own) decide that to avoid economic stagnation and cultural absorption they need each other. To hang together so to speak. Let's suppose they unite into one independent country. Let's suppose they call it Canada; Upper and Lower Canada....

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