



The Referendum Path in Liberal Democracies :
The Case of Québec



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OUTLINE

INTRODUCTION

HISTORICAL LANDMARKS

I- REFERENDUM QUESTIONS IN QUÉBEC

II- REFERENDUM RESULTS IN QUÉBEC

III- QUÉBEC'S *REFERENDUM ACT*

IV- *REFERENCE RE SECESSION OF QUÉBEC*

V- CANADA'S *CLARITY ACT*

VI- QUÉBEC'S *FUNDAMENTAL RIGHTS ACT*

VII- CANADA'S 1995 " DIRTY TRICKS "

CONCLUSION

FUTURE PERSPECTIVES

INTRODUCTION

HISTORICAL LANDMARKS

1968 : Creation of the Parti Québécois (PQ)



1976 : PQ Government I (René Lévesque)

1980 : **Referendum I (Sovereignty-Association)**) (YES : 40,4: NO : 59,6)

1981 : PQ Government II (René Levesque)

1982 : Unilateral Patriation of the *Constitution of Canada*

1990 : Demise of the Meech Lake Agreement

1992 : **Referendum II (Constitutional Reform)** (YES : 43,3,: NO : 56,7)

1993 : Bloc Québécois (BQ) Election Victory

1994 : PQ Government III (Jacques Parizeau)

1995 : **Referendum III (Sovereignty-Partnership)** (YES : 49,4: NO : 50,6)

INTRODUCTION (*continued*)

HISTORICAL LANDMARKS

1998 : PQ Government IV (Lucien Bouchard-Bernard Landry)

1998 : *Reference Re Secession of Québec* (Supreme Court of Canada)

2000 : Canada's *Clarity Act* and Québec's *Fundamental Rights Act*

2006 : Creation of Québec solidaire (QS)



2011 : Creation of Option nationale (ON)



2012 : PQ Government V (Pauline Marois)



I- REFERENDUM QUESTIONS IN QUÉBEC

REFERENDUM I

(May 20, 1980)

« "The Government of Quebec has made public its proposal to negotiate a new agreement with the rest of Canada, based on the equality of nations; this agreement would enable Quebec to acquire the exclusive power to make its laws, levy its taxes and establish relations abroad — in other words, sovereignty — and at the same time to maintain with Canada an economic association including a common currency; any change in political status resulting from these negotiations will only be implemented with popular approval through another referendum; on these terms, do you give the Government of Quebec the mandate to negotiate the proposed agreement between Quebec and Canada?" »

REFERENDUM II

(October 26, 1992)

*Do you agree that the Constitution of Canada should be renewed
on the basis of the agreement reached on August 28, 1992?*

REFERENDUM III

(October 30, 1995)

Do you agree that Quebec should become sovereign after having made a formal offer to Canada for a new economic and political partnership within the scope of the bill regarding the future of Quebec and of the agreement signed on June 12, 1995?.

II- REFERENDUM RESULTS IN QUÉBEC

A- QUÉBEC' S INDEPENDENCE REFERENDUMS

Date	Registered voters	Casted Ballots (%)	Valid ballots (%)	Rejected ballots (%)	YES (%)	NO (%)	MAJORITY (%)
May 20, 1980	4 367 584	3 738 854 (85,61%)	3 673 842 (98,26 %)	65 012 (1,74 %)	1 485 851 (40,44 %)	2 187 991 (59,56 %)	702 140 (19,12%)
October 30, 1995)	5,087,009	4,757,509 (93.52%)	4,671,008 (98,18 %)	86,501 (1.82%)	2 308 360 (49,42 %)	2 362 648 (50,58 %)	54 288 (1,16%)

B- QUÉBEC AND REST OF CANADA REFERENDUMS ON CONSTITUTIONAL REFORM

Date	Registered voters	Casted Ballots (%)	Valid Ballots (%)	Rejected Ballots (%)	YES (%)	NO (%)	MAJORITY (%)
Québec (October 26 1992)	4 872 965	4 033 023 (82,76 %)	3 945 189 (97,82%)	87 832 (2,18 %)	1 709 075 (43,32%)	2 236 114 (56,68%)	527 039 (13,36%)
Rest of Canada (October 26 1992)	13 725 966	9 855 978 (71,8 %)	9 807 080 (99,5 %)	48 898 (0,5%)	4 482 031 45,7%	5 325 049 54,3%	843 018 (8,6%)



III- QUÉBEC *REFERENDUM ACT*

CHAPTER III SUBJECT OF THE REFERENDUM

7. The Government may order that the electors be consulted by referendum
- (a) on a question approved by the National Assembly in accordance with sections 8 and 9, or
 - (b) on a bill adopted by the National Assembly in accordance with section 10.

As soon as the National Assembly is informed of the question or bill contemplated in the first paragraph, the Secretary General of the National Assembly shall notify the chief electoral officer thereof in writing.



III- QUÉBEC *REFERENDUM ACT* (continued)

CHAPTER VIII THE REFERENDUM CAMPAIGN

DIVISION I NATIONAL COMMITTEES

22. Upon the adoption of the text of a question or of a bill that is to be submitted to the referendum by the National Assembly, the secretary general of the Assembly must inform the chief electoral officer of it, in writing.

He shall also send to each member of the National Assembly a notice to the effect that the latter may, within five days after the adoption of the question or of the bill, register with the chief electoral officer in favour of one of the options submitted to the referendum.

23. All the members of the National Assembly who, within five days after the adoption of a question or of a bill that is to be submitted to the referendum, register with the chief electoral officer for one of the options, shall form the provisional committee in favour of such option.

Where, at the end of the period provided for in the first paragraph, no member of the National Assembly has registered in favour of one of the options, the chief electoral officer may invite not less than three nor more than twenty electors to form the provisional committee in favour of such option. Such electors must be chosen from among the persons publicly identified with such option.



III- QUÉBEC *REFERENDUM ACT* (continued)

DIVISION II THE RIGHT TO INFORMATION

26. Not later than ten days before the holding of a poll, the chief electoral officer must send the electors a single booklet explaining each of the options submitted to the referendum, wherein the text is established by each national committee, respectively. Equal space, as fixed by the chief electoral officer, must be given in this booklet to each option.



III- QUÉBEC REFERENDUM ACT (*continued*)

DIVISION IV REFERENDUM FUND

36. The official agent, his deputy or the local agent shall not pay the cost of a regulated expense except out of a special fund called the “referendum fund” for the purposes of this Act.
37. Only the following amounts shall be paid into the referendum fund put at the disposal of an official agent:
- (a) the subsidy provided for in section 40;
 - (b) the amounts transferred or loaned to such fund by the official representative of a political party authorized under Title III of the Election Act (chapter E-3.3), provided that the total sum of the amounts so transferred and loaned does not exceed \$0.50 per elector in the aggregate of the electoral divisions;
 - (c) the contributions directly paid by an elector out of his own property. Number of electors. [...]

DIVISION V GOVERNMENT SUBSIDY

40. The Minister of Finance shall, within three days after a writ of referendum is issued, send to the official agent of each national committee the amount of subsidy that the National Assembly may fix at the time when it adopts the text of a question or a bill that is to be submitted to the referendum. The amount of such subsidy must be the same for each of the national committees.

Where the number of electors entered on the lists of electors is used to fix the amount of the subsidy, the National Assembly may, not later than 60 days after the polling, adjust the subsidy to take account of the additional number of electors entered on the lists of electors used for the polling. The Minister of Finance shall, within three days after the date on which he is informed of this number, pay the supplementary amount of the subsidy to the official agent of each national committee.



IV- Reference Re Secession of Québec (Supreme Court of Canada)

96. However, we are equally unable to accept the reverse proposition, **that a clear expression of self-determination by the people of Quebec would impose no obligations upon the other provinces or the federal government.** The continued existence and operation of the Canadian constitutional order cannot remain indifferent to the clear expression of a clear majority of Quebecers that they no longer wish to remain in Canada. This would amount to the assertion that other constitutionally recognized principles necessarily trump the clearly expressed democratic will of the people of Quebec. Such a proposition fails to give sufficient weight to the underlying constitutional principles that must inform the amendment process, including the **principles of democracy and federalism.** The rights of other provinces and the federal government cannot **deny the right of the government of Quebec to pursue secession,** should a clear majority of the people of Quebec choose that goal, so long as in doing so, Quebec respects the **rights of others.** Negotiations would be necessary to address the interests of the federal government, of Quebec and the other provinces, and other participants, as well as the rights of all Canadians both within and outside Quebec.



V- Canada's *Clarity Act* (2000)

*An Act to give effect to the requirement for clarity
as set out in the opinion of the Supreme Court of Canada in the Quebec Secession*

Article 1

[Clarity of the question]

- (3) In considering the clarity of a referendum question, the House of Commons shall consider whether the question would result in a clear expression of the will of the population of a province on whether the province should cease to be part of Canada and become an independent state.

- (4) For the purpose of subsection (3), a clear expression of the will of the population of a province that the province cease to be part of Canada could not result from
 - (a) a referendum question that merely focuses on a mandate to negotiate without soliciting a direct expression of the will of the population of that province on whether the province should cease to be part of Canada; or
 - (b) a referendum question that envisages other possibilities in addition to the secession of the province from Canada, such as economic or political arrangements with Canada, that obscure a direct expression of the will of the population of that province on whether the province should cease to be part of Canada.



V- Canada's *Clarity Act* (2000)(continued)

Article 1

[Clarity of the question]

- (6) The Government of Canada **shall not enter into negotiations** on the terms on which a province might cease to be part of Canada if the House of Commons determines, pursuant to this section, that a referendum question is not clear and, for that reason, would not result in a clear expression of the will of the population of that province on whether the province should cease to be part of Canada.



V- Canada's *Clarity Act* (2000)(continued)

Article 2 **[Clarity of the majority]**

- (2) In considering whether there has been a clear expression of a will by a clear majority of the population of a province that the province cease to be part of Canada, the House of Commons shall take into account
- (a) the size of the majority of valid votes cast in favour of the secessionist option;
 - (b) the percentage of eligible voters voting in the referendum; and
 - (c) any other matters or circumstances it considers to be relevant
- (4) The Government of Canada **shall not enter into negotiations** on the terms on which a province might cease to be part of Canada unless the House of Commons determines, pursuant to this section, that there has been a clear expression of a will by a clear majority of the population of that province that the province cease to be part of Canada.



V- Canada's *Clarity Act* (2000) (*continued*)

Article 3 **[Constitutional Amendments]**

3. (1) It is recognized that there is no right under the Constitution of Canada to effect the secession of a province from Canada unilaterally and that, therefore, an amendment to the Constitution of Canada would be required for any province to secede from Canada, which in turn would require negotiations involving at least the governments of all of the provinces and the Government of Canada.
- (2) No Minister of the Crown shall propose a constitutional amendment to effect the secession of a province from Canada unless the Government of Canada has addressed, in its negotiations, the terms of secession that are relevant in the circumstances, including the division of assets and liabilities, any changes to the borders of the province, the rights, interests and territorial claims of the Aboriginal peoples of Canada, and the protection of minority rights.



VI- Québec's *Fundamental Rights Act* (2000)

An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State

CHAPTER I THE QUÉBEC PEOPLE

1. The right of the Québec people to self-determination is founded in fact and in law. The Québec people is the holder of rights that are universally recognized under the principle of equal rights and self-determination of peoples.
2. The Québec people has the inalienable right to freely decide the political regime and legal status of Québec..
3. 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 condition or mode of exercise of that right, in particular the consultation of the Québec people by way of a referendum, shall have effect unless determined in accordance with the first paragraph.
4. When the Québec people is consulted by way of a referendum under the Referendum Act (chapter C-64.1), the winning option is the option that obtains a majority of the valid votes cast, namely 50% of the valid votes cast plus one.



VI- Québec's *Fundamental Rights Act* (2000)

CHAPTER II THE QUÉBEC NATIONAL STATE

5. The Québec State derives its legitimacy from the will of the people inhabiting its territory.

The will of the people is expressed through the election of Members to the National Assembly by universal suffrage, by secret ballot under the one person, one vote system pursuant to the Election Act (chapter E-3.3), and through referendums held pursuant to the Referendum Act (chapter C-64.1).

6. The Québec State is sovereign in the areas assigned to its jurisdiction within the scope of constitutional laws and conventions.

The Québec State also holds, on behalf of the Québec people, any right established to its advantage pursuant to a constitutional convention or obligation.

It is the duty of the Government to uphold the exercise and defend the integrity of those prerogatives, at all times and in all places, including on the international scene.

VII- PERILL : CANADA'S 1995 “ DIRTY TRICKS ”

A- EXTRATERRITORIAL FUNDING OF THE CAMPAIGN (THE MONTREAL LOVE IN !)



Grand rassemblement du love-in, à Montréal, à quelques jours du référendum de 1995.

B -FAST TRACK GRANTING OF CANADIAN CITIZENSHIP

1993 : 23 799

1995 : 43 855 (+ 87 %)(October 1995 : 11 429)

1996 : 26 852 (- 39 %)

C- ILLEGAL REGISTRATION AND VOTING

32 students of Bishop's University declared guilty of registering and voting illegally



CONCLUSION

FUTURE PERSPECTIVES

AN ALTERNATIVE TO A REFERENDUM ON INDEPENDENCE :

- 1) DRAFTING OF A *CONSTITUTION OF QUÉBEC* AND OF A *CONSTITUTION OF AN INDEPENDENT QUÉBEC*
- 2) DRAFTING OF CONSTITUTIONAL AMENDMENTS TO THE *CONSTITUTION OF CANADA*
- 3) SUBMISSION OF BOTH DRAFTS FOR APPROVAL BY TO THE PEOPLE OF QUÉBEC BY REFERENDUM
- 4) NEGOTIATIONS WITH CANADA
- 5) ***IF NEGOTIATIONS SUCCESSFUL***, PROMULGATION OF THE NEW QUÉBEC CONSTITUTION **OR, *IF NEGOTIATIONS UNSUCCESSFUL***, PROMULGATION OF THE CONSTITUTION OF AN INDEPENDENT QUÉBEC

CONCLUSION (*continued*)

**VIVE LA LIBERTÉ ! VIVE L'INDÉPENDANCE!
POUR LES PEUPLES D'EUROPE ET DU MONDE!**



**VIVE LE QUÉBEC LIBRE!
GAUDIR DE LA LLIURE I INDEPENDENT CATALUNYA!**

