

Canada's 'constitutional war' with Quebec over its sovereignty suggests that any campaign for Scottish independence will be long and attritional

Jan 12 2012

This week has seen a clash between David Cameron and Scotland's First Minister' Alex Salmond over a referendum on Scottish independence. Looking at the three decades of conflict between Quebec's independence movement and the Canadian government, [Françoise Boucek](#) argues that the complexity of the independence question may mean that we will see a long war of attrition between Westminster and Holyrood.



The war of words between David Cameron and Alex Salmond over Scotland's referendum on independence is just the first of many constitutional battles in what is going to be a protracted campaign. Canada's own struggle with Quebec separatists has been long, featuring periodic skirmishes and big set-piece engagements with no final peace treaty but an overwhelming fatigue that has ended hostilities for now.

Canada's 30-year constitutional war with French-speaking Quebec was suspended by a Supreme Court ruling in favour of the 2000 Clarity Act, denying Quebec the right to secede unilaterally. Since then, the sovereignty movement has run out of steam: support for the separatist Bloc Québécois collapsed in the 2011 federal election, leaving it with just four seats as voters simply dropped from the exhaustion of endless wrangling over national unity.

A poll by Léger Marketing last autumn showed support for Quebec independence had halved from 1995 and 1980 when referendums on 'sovereignty association' were held in Quebec. For 18-24 year olds in particular, support fell to 32%, suggesting that independence has become a nostalgic fixation for ageing baby-boomers. They struggle to keep the flame alive with annual rallies celebrating their near victory at the 1995 referendum that they lost by just 1%. The 'yes' campaign then had been in complete disarray until the charismatic Lucien Bouchard, suffering from a flesh-eating disease, intervened by appealing to Quebecers' emotions.

Canada's war points to the challenges ahead for Westminster and Holyrood. Canadian federalism requires constitutional changes to be approved unanimously by all provinces. For instance, the 1990 Meech Lake Accord sought Quebec's endorsement of the constitution by recognising it as a distinct society. However, Manitoba and Newfoundland rejected the concept, leading to a new agreement – the Charlottetown Accord – which in turn was rejected by Canadians in a 1992 national referendum by a margin of 55% to 45% on a 72% turnout.

EU membership presents a similar constitutional challenge for Scotland – it may need to apply for EU membership and [adopt the euro if it becomes independent](#).

This week's opening salvo on the timing of any Scottish referendum heralds the beginning of the first battle and here are just some of the issues:

- Who has jurisdictional authority to declare independence in the wake of a vote? Salmond says he does but, for the 1995 Quebec referendum, the province's own Superior Court ruled that the provincial government had no constitutional authority to declare independence in the event of a yes vote – contrary to claims by the yes campaign. The 2000 Clarity Act enshrined this ruling.
- Who will oversee the process?
- What will define victory? Will there be a minimum participation threshold?
- Who will have the right to vote? 16 and 17 year olds?
- What will the question say? Will there be more than one? Cameron wants a clear 'yes' or 'no' for Scotland to stay or leave the UK. Salmond wants a two-pronged approach: a yes/no ballot and a second "devo max" question. Quebec's 1980 referendum on "sovereignty-association featured a 106-word question, prompting Canadian constitutional expert Stéphane Dion to note that "a referendum is not a tool adapted to complex questions."

And these are just some of the questions on the technicalities of the referendum itself. Just wait until the specifics of “devo max” start to get aired. Canada spent three decades mired in a war of attrition. Expect the same here.

Timeline of constitutional crises in Canada

- 1968 - Formation of Parti Québécois (PQ)
- 1969 - Official Languages Act promoting equality between English and French communities.
- 1970 - October Crisis: Canadian government proclaimed the War Measures Act to suppress a feared violent revolt after the *Front de Libération du Québec* (FLQ) abducted British trade commissioner James Cross and murdered Quebec Labour Minister Pierre Laporte.
- 1976 – PQ wins Quebec provincial election under René Lévesque whose government introduced Bill 101 (Charter of French Language) in 1977 leading to a flight of businesses from Montreal to Toronto.
- 1980- Quebec referendum on ‘sovereignty association’ defeated (59.6 percent to 40.4 percent)
- 1982 - Prime Minister Pierre Trudeau (Liberal) repatriates Canadian Constitution from Westminster but Quebec refuses to ratify the Constitution Act.
- 1987 – Meech Lake Accord negotiated between Prime Minister Brian Mulroney (Conservative) and ten provincial premiers recognising Quebec as ‘distinct society’.
- 1990- Meech Lake Accord defeated by Manitoba and Newfoundland.
- 1992 – Charlottetown Accord rejected in national referendum.
- Resurgence of Quebec sovereignty movement after the 1993 earthquake election wiped out the Progressive Conservatives and gave the Bloc Québécois 54 of Quebec’s 75 seats in the federal parliament making it the official opposition despite its lack of a national mandate.
- 1995 – second Quebec referendum defeated by a margin of 1%
- 2000 – The Clarity Act becomes law.