

Matt Qvortrup*

Coventry University, United Kingdom

<https://orcid.org/0000-0003-3313-5385>

Referendums, democracy and separatism

Introduction

“It is in general a necessary condition of free institutions, that the boundaries of governments should coincide in the main with those of nationalities”, wrote John Stuart Mill in *Considerations on Representative Government* (Mill, 1991: 431). It was this sentiment, that prompted groups in multinational countries to seek referendums in recent years; to create new boundaries that coincide with those of ‘nations’. For example, in Scotland in 2014, Catalonia in 2017 and Bougainville (a part of Papua New Guinea) in 2019 (Guidi, Casula 2019: 183; see also: Husar-Poliszuk, 2019). These referendums were but some of the recent cases of votes on independence, which have been described in this article as a new wave of separatism. From one perspective, these votes can be seen as democratically legitimate because there ought to be a rule that stipulates that “a state’s territorial integrity can be challenged from inside by a self-defined community” (Waters, 2020: 124). But from another perspective, such referendums – and more generally such acts of secession – can be dangerous. When a constitution “is silent on secession, it is not clear that the central government sanctions such movements, and if it turns out that it does not, secessionist disputes can burst out in violence” (Ginsburg, Versteeg, 2019: 929).

In this article, this development towards more secessionism will be put into context by providing an overview of the votes on independence and nationalism in the past two hundred years, and even further back in history.

The brief history of independence referendums

Independence referendums have a long history. In many ways, these were the original referendums. As far back as the 14th century, votes were held in present-day France to escape the domination of the Holy Roman Empire. Thus in 1307, Lyonnais (in South Eastern France) voted for independence in the first instance of what we might call a referendum (Mattern, 1921: 37).

* Correspondence address: Centre for Trust, Peace and Social Relations, Coventry University, Priory Street, CV1 5FB Coventry, United Kingdom, e-mail: ac0951@coventry.ac.uk

Under similar circumstances, male property-owning citizens in Burgundy voted in 1527 to nullify the Treaty of Madrid, according to which the territory would be ceded to Spain. The vote was a tactical masterstroke by the French King Francis I, who – having read Erasmus of Rotterdam – thought that he could undo the accord he had signed when he was in a weaker position (Wambaugh, 1919: xxiii).

While political theorists from John Locke through to Hugo Grotius were in principle in favour of letting people decide whether they wanted to be ruled by one King or another (Qvortrup, 2015: 549), it was not until the 18th century that this form of consultation began to resemble what we today would consider to be a democratic method of voting.

Modern democracy was not, of course, an American invention, but the new republic in North America established in 1776 shaped the practice of democracy, especially as regards direct citizen involvement (see Waters, 2001). Consequently, it is not surprising that the referendum was used there to determine issues pertaining to sovereignty. The first referendum in America was held in 1788 in Rhode Island, when voters were consulted on whether they wanted to give up their independence and join the newly minted United States. As it happened, they voted ‘no’, but – in what some will find to be an interesting parallel with votes on the European Union in Ireland and Denmark 200 years later – they were under pressure to join the Federation and in some way were given little choice (Herndon, Murray, 2018).

These early experiences were continued in France, though here with a clearer ideological commitment to the sovereignty of the people as originally developed by Jean-Jacques Rousseau in *Du Contrat Social*. The “French revolution proclaimed as the fundamental principle of all government the principle of popular sovereignty” (Mattern, 1921: 24). Hence, it was natural that after the occupation by the French, the Swiss were allowed to vote – and, remarkably, that the French (now governed by Napoleon Bonaparte) – albeit grudgingly accepted the result. However, the referendum as a means of determining sovereignty fell into disuse after Waterloo in 1815, and it only began to be used again in the years after 1848, when there were several votes in Italy and France. For example, Nice voted in a sovereignty referendum to join France, and the process of Italian reunification was codified by popular votes – though it was sometimes difficult to determine the fairness of these (Laponce, 2010: 3).

The first referendums on independence were held in three of the Confederate states in America in the early 1860s. At this stage, the referendum was already a deep-seated part of political life in the United States. By the mid-1850s, it had become commonplace to consult the citizens in major issues of constitutional importance. It was natural, therefore, that Texas, Virginia and Tennessee submitted the decision to secede from the Union to the voters in 1860. What is perhaps interesting is that the support for secession was not unanimous. In Tennessee, for example, 104,913 voted for secession while 47,238 voted against (Anderson, 2013: 123), and in Texas the figures were 44,317 for and 13,020 against (Anderson, 2013: 116). In Virginia, 125,950 voted for (Ander-

son, 2013: 120). These were not endorsements of epic proportions, though there were significant majorities, e.g. nearly 69% in Tennessee, 72% in Texas and 86% in Virginia.

The less than unanimous support perhaps suggested the Dixie voters did not support the nuclear option favoured by the confederate elites. After the American Civil War, referendums on independence were almost forgotten. To be sure, there were debates about plebiscites to resolve the border dispute between Denmark and Germany in the 1860s, but these came to naught.

At this stage, most referendums were mostly about whether certain territories wanted to be part of larger unit. For example, as Table 1 shows, referendums in various parts of the Italian peninsula on whether to join the newly unified Italian Kingdom, were held.

Table 1. Referendums on territorial transfers to a larger unit

1527 Burgundy	1898 New South Wales	1921 Sopron
1791 Avignon	1899 Western Australia	1938 Austria (Anschluss)
1792 Savoy	1898 Queensland	1947 Brigue
1792 Nice	1898 Victoria	1948 Newfoundland
1793 Moselle	1899 New South Wales	1948 Jungadagh
1798 Mulhouse	1900 South Australia	1949 Chandernagor
1798 Geneva	1909 Natal	1955 Saarland
1848 Lombardy	1919 Aaland (Union with Sweden – not official)	1956 Togoland
1848 Venice	1919 Voralberg	1961 Cameroun (two referendums in the two areas on unification)
1857 Moldova	1920 Eupen	1962 Singapour
1860 Parma	1920 South Schleswig	1967 Afars
1860 Tuscany	1920 North Schleswig/ Sønderjylland	1975 Sikim
1860 Sicily	1920 Allenstein	1991 Kourilles
1860 Naples	1920 Marienwerder	2014 Crimea
1860 Marche	1920 Klagenfurt	2014 Donbas
1860 Umbria	1921 Upper Silisia	
1860 Savoy	1921 Tyrol	
1860 Nice		
1898 Tasmania		

Source: own study based on (Centre for Research on Direct Democracy, 2020).

After the American referendums in 1861, it took a full 44 years before the next referendum on independence was held. In this case, a vote on whether Norway should secede from Sweden (more than 99% supported the proposition) in a referendum in 1905. In the Norwegian case, the referendum was the brainchild of Norwegian Prime Minister Christian Michelsen, who wrong-footed the Swedish Unionist elite by calling a surprise referendum after the Swedish king had refused to appoint a government that had a majority in the Stortinget (the Norwegian legislature) (Bjørklund, 2003: 66).

Although the principle of self-determination of the people was much espoused in the wake of World War I – especially by US President Woodrow Wilson who had campaigned for the use of more referendums in America while he was governor of New Jersey (Qvortrup, 2015) – no referendums were held on independence for the newly estab-

lished countries (e.g. Czechoslovakia or Yugoslavia) or the secession of states from established ones (e.g. Hungary and Finland). To be sure, there were several referendums on the drawing of borders in Europe, e.g. in Schleswig and in Tyrol in 1920 (see Table 1). But referendums on outright independence were not held, and the leading scholars of international law were generally sceptical of them. Lassa F.L Oppenheim, arguably the most prominent international legal mind at the time, concluded “it is doubtful whether the law of nations will ever make it a condition of every cession that it must be ratified by a plebiscite” (Oppenheim cited in Mattern, 1921: 195).

In the period between the two World Wars, only two independence referendums were held. One in 1933, on whether Western Australia should secede from Australia, another in 1935, on whether the Philippines should become independent from the United States. In the former, a majority voted for independence, but as the National Party, which campaigned for independence, lost the election held on the same day, nothing came of it. In the latter case, a successful referendum was held on a new independence constitution after the Philippine Congress had rejected the US Congress’s Hare-Hawes-Cutting Act, which granted independence for the erstwhile overseas dependency. However, it was not until World War II that referendums began to be used consistently. This happened when areas seceded from their parent states. Of the over 60 referendums on independence since 1860, 56 have been held after 1944, the vast majority of these – 42 in total – in Europe (Qvortrup, 2020).

As shown in Table 2, there were only 14 independence referendums in the four decades after World War II (Qvortrup, 2020: 6).

Table 2. Secession referendums 1944-1989 (those not leading to new states in bold)

Parent Country	Seceding Country	Year	Turnout	Yes%
Denmark	Iceland	1944	98	99
China	Mongolia	1945	98	64
Denmark	Faroe Islands	1946	50	64
UK	Newfoundland	1948	52	88
France	Cambodia	1955	100	-
France	Guinea	1958	97	95
New Zealand	Western Samoa	1961	86	77
West Ind Fed	Jamaica	1961	46	60
France	Algeria	1962	99	75
Malaysia	Singapore	1962	71	90
UK	Malta	1964	50	80
USA	Micronesia	1975	52	59
Canada	Quebec	1980	85	41
Cyprus	Northern Cyprus	1985	78	70

Source: own study based on (Centre for Research on Direct Democracy, 2020).

One would perhaps have suspected that these referendums would have pertained to decolonisation; that the independence movements would have sought popular approval of their newly gained or espoused freedom. This was not the case. The elites who fought for and won independence were not, in most cases, willing to risk the political victories gained in negotiations or wars by submitting declarations of independence to an unpredictable electorate. Indeed, the only colonies to submit the declarations of independence to referendums were Cambodia, Western Samoa and Guinea. In the first two cases, the votes were held at the instigation of the parent states, which wanted to show that there was popular support for abandoning the territories (Laponce, 2010: 35).

The Guinean referendum was somewhat different. Held on the same day as eleven other referendums in other French colonies, on whether to take part in the newly established *Communauté française*, established by Charles de Gaulle, the Guineans, led by the independence leader Ahmed Sékou Touré, defied Paris and voted to become independent. 95% voted in support of independence. France retaliated by withdrawing all aid. However, within two years Mali, Niger, Upper Volta (now Burkina Faso), Côte d'Ivoire, Chad, The Central African Republic, The Republic of Congo and Gabon became independent states. All territories that had returned huge majorities for maintaining links with France in the referendum in 1958 became independent states *without* a referendum within five years of the 1958 Plebiscite. However, none of the new states submitted the decision to become independent to the voters. It was almost as if referendums on independence were anathema to the independence movements (Laponce, 2010: 52).

Generally, the reasons for holding referendums in the aftermath of World War II were varied. In the case of Mongolia, the vote was held for geopolitical reasons at the instigation of Stalin; the vote in Algeria was held after a lengthy war of independence and negotiations. Overall, it would be difficult to find a general pattern of *when* referendums were held after World War II (Farley, 1986: 36).

In the 1970s, there was only one referendum on independence: the decision of the Trust Territory of the Pacific Islands to become independent from the USA under the name of the Federated States of Micronesia in 1975. In the 1980s, there was a similar paucity of plebiscites. The only one in the latter decade being the 1980 vote in the Francophone Canadian province of Quebec, in which, on a 85% turnout, 59% rejected the secessionist Parti Québécois' proposal for 'sovereignty association' – a veiled description of independence. A vote in Northern Cyprus on whether to become an independent country in 1985 (formally on a new constitution) passed, but only Turkey recognized the new state (Lockhart, Ashton, 1990: 163).

It was only after the fall of Communism in Europe starting in 1989 and after the collapse of the Soviet Union in 1991 that the floodgates of independence referendums opened. Again, the reasons seem to have been varied. In many cases, referendums were held because the international community – especially the major European powers – insisted upon referendums in order to recognize the new states. Especially the Badinter

Commission – set up by the European Communities (soon to become the EU) – stressed that referendums were a *conditio sine qua non* for recognizing new states. There is historical and anecdotal evidence to suggest that it was this requirement that prompted a large number of successor-states to hold referendums especially in the Former Yugoslavia (Radan, 2000: 47).

The referendum was also in many cases a kind of symbolic national manifestation of a newly found freedom. By voting, often almost unanimously, in an independence referendum, the new state made the plebiscite a symbolic representation of the nation itself: a mirror image of the *demos* and the *ethnos* merged into one indivisible unity. Ernest Renan's often cited remark, that a "nation is a daily plebiscite" is perhaps an accurate description of these referendums (Renan quoted in Roshwald, 2015: 443).

As this author has argued at length elsewhere, the referendums were also held for more prosaic reasons, namely when a new elite was under threat from external and internal powers and wanted to prove that it had popular support and the requisite legitimacy to govern (Qvortrup, 2014). Not all of the states, of course were recognized, and not all of the referendums were conducted in accordance with the internally recognized standards of free and fair voting. In addition to referendums in former Soviet and Yugoslav entities, a proliferation of plebiscites was held in sub-national territories such as, for example, Abkhazia in Georgia and Krajina in Bosnia, where minorities sought to win approval for independence from recently declared independent states. None of these sub-national referendums – while the majorities were large – resulted in the establishment of new states.

While most referendums in this period were held in former Communist countries, a few were held in Western democracies. In 1995, the voters in Quebec again rejected independence, this time by a whisker, and so did voters in Puerto Rico in a multi-option referendum in 1993.

And in 1998, the voters in Nevis failed to meet the required threshold of 66% necessary to secede from the Federation of St Kitts and Nevis. In the latter case, there were explicit provisions for a referendums, albeit with a super majority which was not reached (Nisbett, 2004: 10).

Interestingly, the only unsuccessful referendums on independence have been held in countries with established democratic traditions, prompting a scholar (and later politician) to conclude that "secessions are [...] difficult in established democracies" (Dion, 1996: 269).

Table 3. Secession referendums 1991-2019 (those not leading to new states in bold)

Parent Country	Seceding Country	Year	Turnout	Yes Vote
USSR	Lithuania	1991	91	84
USSR	Estonia	1991	77	83
USSR	Latvia	1991	74	88

Parent Country	Seceding Country	Year	Turnout	Yes Vote
USSR	Georgia	1991	98	90
USSR	Ukraine	1991	70	85
Georgia	South Ossetia	1991	98	90
Georgia	Abkhasia	1991	99	58
Yugoslavia	Croatia	1991	98	83
Croatia	Serbs	1991	98	83
Yugoslavia	Macedonia	1991	70	75
USSR	Armenia	1991	95	90
Bosnia	Serbs	1991	90	-
Serbia	Sandjak	1991	96	67
Serbia	Kosovo	1991	99	87
USSR	Turkmenistan	1991	94	97
USSR	Karabagh	1991	N.A	N.A
USSR	Uzbekistan	1991	98	94
Macedonia	Albanians	1991	99	93
Moldova	Transnistrie	1991	100	NA
Yugoslavia	Bosnia	1992	99	64
Yugoslavia	Montenegro	1992	96	44
Georgia	South Ossetia	1992	NA	NA
Bosnia	Krajina	1992	99	64
Ethiopia	Eritrea	1993	99	98
Bosnia	Serbs	1993	96	92
USA	Puerto Rico	1993	48	73
USA	Palau	1993	64	68
Georgia	Abkhasia	1995	96	52
Quebec	Cris	1995	95	75
Canada	Quebec	1995	49	94
St Kitts and Nevis	Nevis	1998	57	61
USA	Porto Rico	1998	50	71
Indonesia	East Timor	1999	78	94
Somalia	Somaliland	2001	-	97
New Zealand	Tokelau	2006		95
Yugoslavia	Montenegro	2006	55	86
South Sudan	South Sudan	2011	97	98
Britain	Scotland	2014	83	44
Iraq	Kurdistan	2017	72	92
Spain	Catalonia	2017	43	92
France	New Caledonia	2018	81	43
PNG	Bougainville	2019	87	98
France	Caledonia	2020	85	46

Source: own study based on (Centre for Research on Direct Democracy, 2020).

During this period, referendums came in different forms and not all followed legal procedures – or indeed any at all. Some referendums were held under legally agreed rules, such as the ones in Scotland (2014), New Caledonia (2018 and again in 2020) and Bougainville (2019), others like the vote in Kurdistan and Catalonia (both 2017) were legally speaking *ultra vires*, not held in accordance with established and codified legal principles. In many cases – Catalonia, New Caledonia and Scotland among them – the vote took place in a political culture that was shaped by the precedents of previous referendums. For example, in Catalonia there had been referendums on devolution of powers short of independence in the early 1930s and in the later 1970s. What was new in 2017 was that the vote was about outright independence, something which never previously had been a stated goal for the Catalans.

The legal position

Independence referendums are not a solid part of international law, let alone constitutional jurisprudence. As indeed, was proven by the fact that Kosovo became independent although no vote immediately preceded the declaration of independence, and as Slovakia and the Czech Republic were established without a referendum (Fabry, 2010). As Yves Beigbeder has observed, “the crucial requirement for self-determination plebiscites or referenda is the political will or consent of the countries concerned, their conviction that populations should not be treated as mere chattels and pawns in the game, but that their free vote should be the basis for territorial and sovereignty allocations” (Beigbeder, 1994: 160).

To take the example of Scotland, although the SNP won a majority of the vote in 2011, the party was “clearly aware that it would be democratically perverse, as well as politically and legally impossible, to try to override the legal legitimacy of the [Scotland] Act [1998] by way of an extra-constitutional referendum” (Tierney, 2012: 147). This situation is not so different from the situation in Catalonia where the regionalist party *Convergència i Unió* and its allies won an election to the *Parlament de Catalunya* on a similar pledge in November 2012 – or even in more recent elections.

Hence, the situation in Catalonia mirrors patterns elsewhere. But in one sense it was unique for the exceptionally prominent role played by the courts. To be sure, in other countries too, legal arguments were prominent – not least in Canada (see below). How does this aspect compare and was the Madrid government correct in following this path?

Fundamentally, very few countries have freely accepted that referendums on independence take place. The Soviet Union did not accept the secession of Latvia, Lithuania, and Estonia through referendums. And the break-up of Yugoslavia, which was preceded by popular votes, was likewise rejected by Belgrade. They were ruled unconstitutional by the Yugoslavia’s Constitutional Court (Bagwell, 1991). True, neither Yugoslavia nor the Soviet Union were democratic states and might not be expected to be committed to

the self-determination of the peoples. To be sure, they all had references to self-determination, but this was largely window dressing. Indeed, it is well-established from historical research that Communist leaders went to great lengths to give the impression of popular democracy and ditto approval by the voters (Getty, 1991).

But opposition to the secession through referendums is not confined to authoritarian states. For example, in 1944 the Danish government did not accept the outcome of a referendum on independence for Iceland. And two years later, the Faroe Islands' vote for independence was rejected. After negotiations, the Danes accepted that the Faroese kept their MPs in Copenhagen, but were granted legislative power in all areas except foreign affairs and defence. In effect, the Faroe Islands got what has in other cases been called "devolution max" (Keating, 2012). This deal was sealed when the Unionist Parties won the hastily organized general election to the Lagtinget (the Faroese legislature) shortly after the referendum (Sølvará, 2003: 156).

To hold a referendum is not just a political act. It is a legal one. As such it must be held under legally accepted rules. Generally speaking, it has become an accepted norm in international relations that erstwhile colonies should be granted independence after referendums (United Nations Secretary-General, 2008). This was not always the case and this change represents a break with earlier epochs, when "the rules governing the intercourse of states neither demand[ed] nor recognize[ed] the application of the plebiscite in the determination of sovereignty" (Mattern, 1921: 171).

Such views notwithstanding, the overall legal position is clear, "there is no unilateral right to secede based merely on a majority vote of the population of a given sub-division or territory" (Crawford, 2006: 417). Or, as it was stated in an *obiter dicta* in a case about the legality or otherwise of Kosovo's secession from Yugoslavia, the International Court of Justice (ICJ), opined in a passage that deserves to be quoted verbatim,

In contrast, claims to external self-determination by such ethnically or racially distinct groups pose a challenge to international law as well as to their own State, and most often to the wider community of States. Surely, there is no general positive right under international law, which entitles all ethnically or racially distinct groups within existing States to claim separate statehood, as opposed to the specific right of external self-determination which is recognized by international law in favour of the peoples of non-self-governing territories and peoples under alien subjugation, domination and exploitation. Thus, a racially or ethnically distinct group within a State, even if it qualifies as a people for the purposes of self-determination, does not have the right to unilateral secession simply because it wishes to create its own separate State, though this might be the wish of the entire group. The availability of such a general right in international law would reduce to naught the territorial sovereignty and integrity of States and would lead to interminable conflicts and chaos in international relations. (International Court of Justice, 2010: 621-622).

For an entity to hold a referendum on independence it must follow the established rules. The general rule is that referendums, either,

- have to be held in accordance with existing constitutions (such a provision exists, for example, in Art 39(3) of the Ethiopian constitution [*Constitution of the Federal Democratic Republic of Ethiopia*, 2005]) or,
- following an agreement between the area that seeks secession and the larger state of which it is part (this is what happened in the very different cases of Scotland, 2014, and South Sudan, 2011).

Following this logic, it was strictly speaking illegal for Catalonia to hold a referendum. As Tom Ginsburg and Mila Versteeg have argued, “when a constitution explicitly prohibits secession, it is difficult for secessionist movements to gain support for their cause, as they have to overcome the prohibition. This, in turn, reduces the bargaining threats that can be used by subordinate units, while strengthening the central authorities, thereby making breakup less likely” (Ginsburg, Versteeg, 2019: 928).

However, there is another rule that can be added to this legal theory. The Catalans might have claimed that they were allowed the right to hold a referendum because other avenues were closed. As Antonio Cassese, a prominent international lawyer has put it:

When the central authorities of a sovereign State persistently refuse to grant participatory rights to a religious or racial group, grossly and systematically trample upon their fundamental rights, and deny them the possibility of reaching a peaceful settlement within the framework of the State structure [...] a group may secede – thus exercising the most radical form of external self-determination – once it is clear that all attempts to achieve internal self-determination have failed or are destined to fail (Cassese, 1995: 119-120).

This is not just the view of a lawyer. There is even support for this in *black letter* case law. In the words of Judge Yusuf in *Re Kosovo*,

Where the State not only denies them the exercise of their internal right of self-determination (as described above), but also subjects them to discrimination, persecution and egregious violations of human rights or humanitarian law. Under such exceptional circumstances, the right of peoples to self-determination may support a claim to separate statehood provided it meets the conditions prescribed by international law, in a specific situation, taking into account the historical context (International Court of Justice, 2010: 622).

Where does this leave the Catalan case? Premier Carles Puigdemont was not willing to negotiate a constitutional change. His offer of negotiation was solely about an independence referendum (Guidi, Casula, 2019: 185). Hence, given that Spain is a democratic state (it scores a top-ranking One on Freedom House, for example), the rule summed up by Judge Yusuf in *Re Kosovo* hardly covered Catalonia. Was the referendum in the Spanish Autonomia consequently illegal? The answer is in the affirmative.

While the reaction of Madrid was heavy-handed (and a public relations disaster), it took place within the confines of a democratic state. Legally, the Rajoy government

was within its constitutional right to follow the course it chose. But it also exacerbated the situation and – speaking as an outsider – it was not conducive to solving the issue.

The Madrid government was inflexible. A bit of forbearance could have solved the conflict. The Canadian Supreme Court's judgement in the famous *Re Quebec* case could serve as an inspiration. The Court held that while the "secession of Quebec from Canada cannot be accomplished [...] unilaterally" a referendum itself was not unconstitutional but a mechanism of gauging the will of the francophone province. Consequently, a referendum, provided it resulted in a "clear majority", "would confer legitimacy on the efforts of the Quebec government" (Canadian Supreme Court, 1998: 385). In other words, a result in favour of secession would require the rest of Canada to negotiate with Quebec. Needless to say, this ruling does not apply in Catalonia, however the Canadian example suggests that other countries' courts have shown flexibility and appreciation of nuances that is conducive to compromises.

Conclusions

Referendums are about politics, as well as about law. Winning a plebiscite does not give a territory the right to establish an independent state.

Yet such reasoning can become stale and legalistic, especially when it is being pursued inflexibly and with political motives – as was arguably the case when Mariano Rajoy used force to prevent the referendum in Catalonia in 2016 and when the Spanish government employed the law) and harsh police tactics in pursuit of their goals. Admittedly, there was a similar lack of flexibility on the other side. Confrontation suited both sides politically. But, as far as finding a solution, referendums on independence are not always conducive to this. In the words of Clifford Geertz

It is the very process of formation of a sovereign civil state [...] that among other thing, stimulates elements of parochialism, communalism, racialism, and so on, because it introduces into society a valuable new prize over which to fight and a frightening new force with which to contend (Geertz, 1963: 120).

Maybe John Stuart Mill was right that "free institutions are next to impossible in a country made up of different nationalities" (Mill, 1991: 428). The recent experience in Catalonia seem to suggest this. However, other referendums have been conducted peacefully. Maybe, the former referendums resulted in strife because the different sides did not heed another one of Mill's maxims, namely that:

One of the most indispensable requisites in the practical conduct of politics, especially in the management of free institutions, is conciliation; a readiness to compromise; a willingness to concede something to opponents, and to shape good measures so as to be as little offensive as possible to persons of opposite views; and of this salutary habit, the mutual give and take (Mill, 1991: 385).

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Abstract: There have been referendums on separatism for longer than there has been democracy. Allowing areas to vote on independence or on whether to belong to another state or territory is a practice that goes back as far as the 14th century, though it is only in the 20th century that it really took off. While many claim a right to 'self-determination', there is no formal legal right to hold referendums on secession, unless there are constitutional provisions for this, a specific agreement between the parties, or if the country is a former colony. Of the referendums on independence that have been held, very few have yielded 'yes' votes in developed democratic societies.

Keywords: referendums, nationalism, secession, independence, democracy, Caledonia

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