

SECOND GOVERNMENT OF MAURICE DUPLESSIS

(AUGUST 30, 1944 TO SEPTEMBER 7, 1959)



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••• Status of Québec

10. In 1867, four pioneer provinces decided to form a confederation. It is important to remember this, because it proves conclusively that Confederation was born of the free consent of the four founding provinces. Confederation, let us never forget, is the child of the provinces.¹¹
11. Canadian Confederation is a pact of union between two great races.¹²
12. The province of Québec is firmly convinced that the federal system is the only system that can maintain the unity of the country. This system both protects minorities and guarantees the economic interests of each region of the country.¹³

••• Constitutional reform process

13. It seems to us at this time, various amendments to the Canadian Constitution are welcome, but it is our staunch conviction that the spirit of the Canadian Constitution must be integrally respected. From our standpoint, all constitutional issues should be analyzed at this conference, and not just the part of the Constitution that federal authorities have initially submitted to the delegates' consideration.¹⁴
14. The Province of Québec is heartily in favour of a Canadian constitution decided upon in Canada by Canadians and for Canadians, and amendable through appropriate constitutional and fair methods.¹⁵

••• Constitutional amending procedure

15. While the Constitution gives the provinces, to a limited degree, the right to amend the Constitution as far as provincial jurisdiction is concerned, it denies the federal government that right.¹⁶
16. Confederation is essentially a pact. And since the nature of the Constitution is that of a pact, it cannot nor should it be amended without the consent of all the contracting parties, or at least without the consent of the four pioneer provinces.¹⁷

*Constitutional amending procedure:
See also paragraph 14.*

11. Statement by Maurice Duplessis, Federal-Provincial Conference, April 29, 1946, p. 455 (quotation), King's Printer, 1946.
12. Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 17-18, King's Printer, 1950 (See part 2 of this document). Maurice Duplessis reiterated this statement at the Federal-Provincial Conference of September and December 1950 and the Federal-Provincial Conference of November 1957.
13. Statement by Maurice Duplessis, Federal-Provincial Conference, April 29, 1946, p. 399 (quotation), King's Printer, 1946.
14. Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 16 (quotation) [Translation], King's Printer, 1950 (See part 2 of this document).
15. *Ibid.*, p. 17 (quotation).
16. Intervention by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 83, King's Printer, 1950. See also *Report of the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 164.
17. Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 396, King's Printer, 1946.

••• **Distribution of powers**

a) General principles

17. The very essence of Confederation is made of sovereign provincial authorities, within the scope of their jurisdiction, and of a sovereign central authority, within the scope of its jurisdiction. When Confederation was discussed and decided upon, it was based on the principle of complete provincial autonomy.¹⁸
18. Provincial autonomy cannot be safeguarded by substituting federal grants for provincial financial independence.¹⁹
19. In the social legislation field, the federal system probably offers advantages not found in countries with a single government. Indeed, the co-existence of several governments all autonomous in their respective spheres, because they provide points of comparison, creates by its very nature a healthy rivalry for the greater good of those governed.²⁰
20. Canada is a confederation of autonomous provinces. A genuine federal system is based on a federal authority and provincial authorities that enjoy not only the power to legislate and administer, but also the financial powers that enable them to govern.²¹
21. One of the essential prerogatives of autonomous provinces is the ability to collect, by direct taxation and as they consider appropriate, the funds needed for the efficient operation of public services and the implementation of laws passed by their Parliament [...]. Fundamentally, the federal system that allocates public tasks, must also include a correlative distribution of public revenues [...]. A central government that appropriated the sources of taxation for itself would, in fact, reduce the provinces to legislative impotence. A province with no other sources of revenue than federal subsidies would become a kind of lesser body, under the tutelage of the authority that could dole out its means of subsistence.²²
22. The provinces' exclusive rights in terms of social legislation, education, civil law, etc., must be preserved and protected in their entirety if Confederation is to survive.²³
23. Social legislation will be more beneficial if it is better adapted to the needs and cultural aspirations of the population to which it applies. Local interest is then the basis of the general interest and provincial legislatures, because of their closer contact with citizens, are in a better position than the federal government to determine the kinds of legislation that should be passed.²⁴
24. The province of Québec is not for sale; it will not be sold and it does not ask for any favours. We demand respect

18. Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 17 (quotation), King's Printer, 1950 (See part 2 of this document).

19. Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 407 (quotation), King's Printer, 1946.

20. *Ibid.*, p. 406 (quotation).

21. Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 17-18, King's Printer, 1950 (See part 2 of this document).

22. Brief presented by Maurice Duplessis, Canadian Intergovernmental Conference, Ottawa, October 1955, p. 10 (quotation), Queen's Printer, 1955. See also statement by Maurice Duplessis, Federal-Provincial Conference, Ottawa, November 25 and 26, 1957, p. 25, Queen's Printer, 1957.

23. Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 407 (quotation), King's Printer, 1946.

24. *Ibid.*, p. 405 (quotation).

for our rights, we want the educational system to be respected, that our exclusive rights be preserved, and regardless of the government in power, we will continue our struggle, with the conviction that we are on the right path and at the same time requesting the cooperation of all those who love this province, who seek the vitality and survival of a great people and at the same time with respect for our sound religious and national traditions. This is not a question of partisanship, this is not a political issue, in the ordinary sense of the word, it is a question of life and survival. Signs of dangers are many; encroachments are repeated; the wounds that have been made are deep and serious, but this is not a lost cause, far from it, if everyone agrees to recognize this situation.²⁵

b) Sectorial jurisdictions

25. Québec considers the following areas to be under the exclusive jurisdiction of the provinces: natural resources, the establishment, funding and management of hospitals, asylums and charitable institutions, education at every level, including universities, regulation of the liberal professions, including admission criteria for the practice of medicine and relations between physicians and clients,²⁶ social security, health, public health, bridge and road construction.²⁷

26. Provinces should have exclusive jurisdiction over the following areas: education, property rights and civil law, hospitals, trades and professions, fisheries, marriage, agriculture, municipal and educational institutions, insurance, establishment of an Appeal Court for civil, municipal and educational issues and the appointment of its members, settlement, natural resources, the provincial civil service, administration of criminal and civil justice, the organization and maintenance of courts of civil and criminal justice in each province, civil procedure and appointment of judges to such courts, clearly defined taxation and borrowing powers over provincial matters.²⁸

27. Québec protests against certain federal intrusions into provincial spheres of activity, including the following:

- i) Québec protests against the federal initiative of passing family allowance legislation—which it views as a dangerous encroachment on its rights—and, in 1955, passed a provincial family allowance act which, however, it did not implement.²⁹
- ii) In 1950, Québec refused to sign a federal-provincial agreement on funding the construction of the TransCanada Highway because, in Québec's view, the agreement did not provide sufficient guarantees concerning protection of the province's rights.³⁰

25. Declaration by Maurice Duplessis, Hauterive, May 31, 1959, extracted from Claude Morin, *Le combat québécois*, Les Éditions du Boréal express, 1973, p. 68 (quotation).

26. Brief by Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 397.

27. Onésime Gagnon, Budget Speech, March 25, 1947, p. 27.

28. Preliminary brief by the Québec government. Canadian Intergovernmental Conference begun in Ottawa on January 10, 1950, tabled at the Federal-Provincial Conference on the Constitution, Québec, September 25-28, 1950, p. 100, King's Printer, 1950 (Part 3: document no. 3).

29. Report tabled by the Royal Commission of Inquiry on Constitutional Problems, Province of Québec, Volume 1, 1956, p. 175.

30. *Ibid.*, p. 179.

- iii) In 1953, Québec blocked a federal proposal to directly fund Canadian universities through the National Conference of Canadian Universities. Québec objected to the federal intervention to replace essential provincial financial powers with federal grants and to encroach on the field of education, which is within exclusive provincial jurisdiction.³¹
28. The fact that the Constitution of 1867 specifically grants to the provinces the right to levy direct taxes conclusively means that the provinces take precedence in matters of direct taxation.³²
29. The areas of personal income tax, succession duties and corporate income and capital tax are within the jurisdiction of the provinces which need them and have constitutional priority over them.³³ Estate duties belong to the provinces; they stem from the Civil Code and the Canadian Constitution, which reserves matters relating to the Civil Code and property rights exclusively to the provinces [...]. As to personal income tax and corporate taxes, each province holds exclusive rights in terms of direct taxation for provincial purposes.³⁴
- c) *Unilateral powers*
30. Parliament's powers of reservation and disallowance should disappear.³⁵
- **Institutions**
31. The members of the Canadian court that would be created to replace the Privy Council should be appointed by the federal and provincial governments.³⁶ It is not reasonable and in conformity with a true comprehension of national unity that the federal authority appropriate for itself the right to unilaterally choose the arbitrators called upon to decide on the respective rights of each party.³⁷ Québec considers that the Supreme Court of Canada should meet all the conditions required of a third arbitrator for constitutional matters and Canadian intergovernmental relations.³⁸
32. Matters of civil law, of municipal law and of school law should be adjudicated upon, in the last resort, by a Court of Appeal set up by each Province, the Judges of which should be appointed by each Province.³⁹

31. Letter from Maurice Duplessis to Stuart Garson, federal Justice Minister, September 15, 1954.

32. Statement made by Maurice Duplessis, Federal-Provincial Conference, preliminary meeting, Ottawa, April 26, 1955, p. 36, Queen's Printer, 1955.

33. Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 400, King's Printer, 1946. Statement delivered by Maurice Duplessis, Federal-Provincial Conference, Ottawa, November 25 and 26, 1957, p. 22, Queen's Printer, 1957.

34. Opening statement by Maurice Duplessis, Federal-Provincial Conference, Ottawa, November 25 and 26, 1957, p. 22 (quotation), Queen's Printer, 1957.

35. Preliminary brief by the Québec government. Canadian Intergovernmental Conference begun in Ottawa on January 10, 1950, tabled at the Federal-Provincial Conference on the Constitution, Québec, September 25-28, 1950, p. 101, King's Printer, 1950 (Part 3: document no. 3).

36. Letter from Maurice Duplessis to George Drew, Head of the federal Conservative Party, April 8, 1947.

37. Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 16 (quotation) [Translation], King's Printer, 1950 (See part 2 of this document).

38. Preliminary brief by the Québec government. Canadian Intergovernmental Conference begun in Ottawa on January 10, 1950, tabled at the Federal-Provincial Conference on the Constitutional, Québec, September 25-28, 1950, p. 101, King's Printer, 1950 (quotation; see part 3: document no. 3).

39. *Ibid.*, p. 100.

••• Intergovernmental policy

Financial aspects of federalism

33. Provincial legislative assemblies are essential. Obviously they cannot exercise the legislative powers that have been entrusted to them if they do not have requisite authority in financial matters. The provinces need financial authority to resolve not only current problems, but also those of tomorrow.⁴⁰
34. In these difficult times, there are three things that we need. The first one is a precise definition, a clear distribution of the respective fiscal powers of the provinces and the Dominion. This is the very basis, the keystone of national freedom and security. We need greater simplification in the means for collecting taxes and a lightening of the taxpayer's burden.⁴¹
35. Québec opposed the federal post-war program because it would tend to replace the system of provincial fiscal autonomy with a system of grants that would enable the federal government to exercise financial control over the provinces. Furthermore, the program would deny the provinces access to the most important sources of direct taxation and, to that extent, paralyze
- their ability to exercise the powers attributed to them by the Constitution.⁴² In theory, the substitution of federal subsidies for the essential financial powers of the democratic government is not recommendable, at least generally speaking. On more than one occasion, Sir Wilfrid Laurier stated that it is unhealthy for a government to collect taxes that are spent by another government.⁴³
36. Temporary payments, or what is commonly called generous subsidies, may never compensate the loss of permanent rights whose transfer or abrogation may open the door to consequences that are perhaps disastrous.⁴⁴
37. In 1954, Québec passed a provincial income tax equivalent to approximately 15 % of the federal tax. Québec demanded full deduction of provincial income tax from tax paid to the federal government.⁴⁵ With the implementation of this income tax, Québec took another positive step in exercising its rights and fulfilling its duties.⁴⁶ Following negotiations with the federal government, Québec obtained an abatement equivalent to 10 % of the federal tax.⁴⁷

*Financial autonomy of the provinces:
See also paragraphs 18, 20, 21 and 27.*

40. Opening statement by Maurice Duplessis, Federal-Provincial Conference, August 6, 1945, p. 22, King's Printer, 1946.

41. Statement by Maurice Duplessis, Federal-Provincial Conference, April 29, 1946, p. 461 (quotation), King's Printer, 1946.

42. Brief by the Québec government, Federal-Provincial Conference, April 25, 1946, p. 404, King's Printer, 1946.

43. Statement by Maurice Duplessis, Federal-Provincial Conference, December 4, 1950, p. 30, King's Printer, 1951.

44. Statement by Maurice Duplessis, Federal-Provincial Conference, May 1, 1946, p. 582 (quotation), King's Printer, 1946.

45. *Report tabled by the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 153.

46. Onésime Gagnon, Budget Speech, February 12, 1954, p. 16.

47. *Report tabled by the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 154-155. See also the declaration by Maurice Duplessis at the first reading of Bill 43 on the implementation of a provincial income tax before the Québec Legislative Assembly, January 14, 1954 (See part 2 of this document).