

FIRST GOVERNMENT OF ROBERT BOURASSA

(MAY 12, 1970 TO NOVEMBER 15, 1976)



Source: Le Soleil

••• Status of Québec

126. The precise definition of Québec society within the Canadian federation remains a fundamental problem for Québec.¹⁴⁶
127. The Québec government believes a genuine affirmation of Quebecers' cultural identity is possible within the federal system. Cultural affirmation means control by Québec, and the financial means and constitutional powers with which it can promote the cultural development of its population.¹⁴⁷
128. Québec's constitutional policy is premised on the need and desire of Quebecers, first, to head a government that will enable them to develop their own cultural personality and, second,

to participate in a prosperous bicultural federation which respects the distinct character of Québec society.¹⁴⁸

129. Québec will seek to obtain recognition from the rest of Canada of its unique responsibility for the survival and development of French culture. Québec cannot yield this responsibility to others and must obtain the necessary constitutional guarantees to ensure this.¹⁴⁹ The constitutional review must recognize the cultural aspirations of Quebecers as expressed by all governments of Québec with the full support of the people of Québec.¹⁵⁰
130. A new Canadian constitution would be unacceptable if it failed to clearly and concretely recognize the fact that Quebecers are different and form a distinct society that vigorously wants to maintain its social and cultural identity.¹⁵¹

*Cultural affirmation of Québec:
See paragraphs 134 and 166.*

*Cultural security and patriation of the Constitution:
See paragraph 135.*

••• Constitutional reform process

131. A prerequisite to constitutional reform is improved fiscal and economic relations between governments, with a view to implementing a new economic federalism.¹⁵²

146. Government of Québec, statement by Robert Bourassa, Québec National Assembly, Standing Commission on the Constitution (Victoria Conference), *Journal des débats*, May 18, 1971, p. B-1274.

147. Inaugural Speech to the second session of the 29th legislature, Québec National Assembly, *Journal des débats*, February 23, 1971, p. 7.

148. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 6-7.

149. Inaugural Speech to the first session of the 30th legislature, Québec National Assembly, *Journal des débats*, November 22, 1973, p. 22-23.

150. Inaugural Speech to the third session of the 30th legislature, Québec National Assembly, *Journal des débats*, March 18, 1975, p. 1.

151. Statement by Claude Castonguay, Minister of Social Affairs, before members of the Québec Club Richelieu, Québec, January 18, 1971.

152. Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of Ministers of Finance, Winnipeg, June 5-6, 1970, p. 4.

132. The Québec government has always had a dual objective in terms of constitutional reform, i.e. decentralized federalism and the promotion of Québec's distinct personality.¹⁵³
133. Québec cannot accept the proposed Victoria Constitutional Charter. This decision stems from the necessity to agree, as much as possible, on clear and precise constitutional texts, to avoid shifting to the judiciary a responsibility that belongs primarily in the political sector. As such, the texts dealing with income security still contain an uncertainty that squares poorly with the objectives inherent in any notion of constitutional review.¹⁵⁴
134. Federalism represents for Quebecers the best means for attaining their economic, social and cultural objectives [...]. In keeping with Quebecers' clearly expressed desire in this sense, the government will devote its efforts to reinforcing Canadian federalism. As such, it feels that federalism must be decentralized in order to reflect the diversity of the regions of our country. This federalism must also guarantee provinces the freedom of action they need for fully assuming their responsibilities with regard to their citizens; this federalism must also allow the government of Québec to ensure the cultural future of the majority of its population.¹⁵⁵
135. The patriation of the Canadian Constitution and the adoption of an amending formula could provide an opportunity for the recognition of Quebecers' cultural rights. In this regard, Québec has a duty to demand clear constitutional guarantees in sectors naturally linked to cultural security, of which communications and immigration have special significance. Quebecers will only agree to the patriation of the Constitution if that document provides them with guarantees as to the future of French culture.¹⁵⁶
136. Québec proposes that provincial ministers meet at least once a year to review legal decisions of a constitutional nature, other questions related to the Constitution and, if necessary, to finalize any proposed amendment to the Constitution.¹⁵⁷
- **Constitutional amending procedure**
137. Québec proposes that the creation of new provinces be subject to the agreement of the existing provinces, according to the original *veto* formula of the Victoria Charter.¹⁵⁸
- **Distribution of powers**
- a) *General principles*
138. In concrete terms, Québec's desire for decentralization means obtaining financial resources appropriate to provincial responsibilities, a clarification of these responsibilities in sectors such as regional development and management, and additional powers in the cultural and social fields.¹⁵⁹

153. Statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 17.

154. Statement by Robert Bourassa, Québec National Assembly, *Journal des débats*, June 23, 1971, p. 2738 (See part 2 of this document); see also the communiqué by Robert Bourassa, June 23, 1971 (Part 3: document no. 9).

155. *Ibid.* (quotation) [Translation].

156. Speech by Robert Bourassa, Mont-Gabriel Symposium, August 24, 1975. See also the letter from Peter Lougheed, Premier of Alberta, on behalf of all provincial First Ministers, to Pierre Elliott Trudeau, Prime Minister of Canada, October 14, 1976.

157. Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 11.

158. *Ibid.*, Schedule 12.

159. Opening statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 16; see also the Inaugural Speech to the third session of the 30th legislature, Québec National Assembly, *Journal des débats*, March 18, 1975, p. 1.

139. If Canada's bicultural character is to be preserved, and its preservation and development is one of Canada's basic objectives, then Québec must be in a position to guarantee the conditions for the development of its French reality. It will succeed by making maximum use of the powers it already holds, and by exercising certain additional powers that will increase the effectiveness and influence of its linguistic and cultural character.¹⁶⁰

140. As far as maintaining and developing Québec's identity is concerned, we will base our position on an objective assessment indicating which order of government best serves the public.¹⁶¹

141. Québec has always promoted decentralized federalism, which alone is truly adapted to the variety of economic, social and cultural needs of Canadians in every region of the country.¹⁶²

142. Québec would favour the inclusion of a provision in the Constitution enabling delegation of legislative powers between the two orders of government. Legislative delegation would add more flexibility to an often overly rigid distribution of powers. It would correct legal interpretations that failed to respect the spirit of the Constitution, and make it possible to develop regionally based programs. In addition, delegation of powers establishes various degrees of centralization or of decentralization in the relations between the central

government and the provinces and therefore is consistent with the flexibility of federalism.¹⁶³

143. The Québec government is in the best position to understand and define the needs of the population of Québec, especially with regard to education, culture, land use planning and social policy. This principle is valid for the entire constitutional issue.¹⁶⁴

*Decentralization and constitutional reform:
See also paragraphs 132 and 134.*

*Charter of human rights and distribution of powers:
See paragraphs 160 and 161.*

b) Sectorial jurisdictions

144. Québec claims priority of responsibility for the design of health, social services, income security and manpower policies, while recognizing the essential role of the federal government in securing an acceptable standard of living for all Canadians. Nonetheless, the administration of social policy programs would be shared, however, according to whether the type of program defined by each province lends itself better to a centralized administration, or demands a decentralized management.¹⁶⁵ The important point in the case of programs administered by the federal government is that they be administered under an income security policy established by the provinces and that a satisfactory link be maintained with them.¹⁶⁶

160. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 6 (quotation).

161. *Ibid.*, p. 4.

162. Statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 15.

163. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 10.

164. Speech by Claude Castonguay, Minister of Social Affairs of Québec, Annual Meeting of the Society of Actuaries, Toronto, November 1971.

165. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 10-11. See also statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 17.

166. Statement by Claude Castonguay, Minister of Social Affairs of Québec, Federal-Provincial Conference of Ministers of Social Welfare, Ottawa, January 1971.

Social policies: See also paragraphs 133, 138 and 143.

145. The organization and distribution of health care and social services lies clearly within the exclusive jurisdiction of the provinces.¹⁶⁷
146. Housing, recreation, local public services facilities, urban development and land use planning are within the provinces' jurisdiction exclusively. The federal government's role in these areas should be limited to financing.¹⁶⁸
147. Québec wants take an active part in developing and defining government communications policies.¹⁶⁹ Furthermore, Québec should be able to control the development of communications within its borders, establish the general principles that will promote the social, cultural and economic development of the community to be served, regulate the cable and broadcasting sectors, as well as communications companies (programming; rates, except for radio and television) and participate on the boards of directors of federal communications agencies.¹⁷⁰ From a constitutional standpoint, Québec proposes that the provinces acquire preponderant legislative jurisdiction over communications (communications networks within the province).¹⁷¹

Communications: See also paragraph 135.

148. Québec demands the development of mechanisms which ensure that the contribution of Canada and Québec to international development will be the result of common efforts.¹⁷²
149. The tax on companies that develop natural resources should be within the exclusive jurisdiction of the provinces. Québec proposes that succession duties and gift taxes also come under exclusive provincial control and agrees to the principle of open access to other tax sources for both levels of government.¹⁷³
150. As far as energy is concerned, neither the federal government's unilateral action nor the uncoordinated actions of provincial governments will enable us to achieve the goals that must be attained. Only joint cooperative efforts by both levels of government and by all governments will succeed.¹⁷⁴
151. As far as immigration is concerned, provincial participation would be to the federal government's benefit, since they are in the best position to know their manpower requirements and the type of immigrants they would prefer to receive.¹⁷⁵
152. Québec demands, first, that a Canadian immigration policy be voluntary

167. Statement by Claude Castonguay, Minister of Health, Federal-Provincial Conference of Ministers of Health, Ottawa, December 9-11, 1970, Schedule 3, p. 5 (quotation).

168. Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 49.

169. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 13.

170. Jean-Paul L'Allier, Minister of Communications, *Le Québec maître d'oeuvre de la politique des communications sur son territoire*, Éditeur officiel du Québec, 1973, p. 89-103.

171. Joint proposal by Québec and Saskatchewan, summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 8. See also statement by Jean-Paul L'Allier, Minister of Communications, Federal-Provincial Conference on Communications, Ottawa, November 29-30, 1973.

172. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 13.

173. Notes for Robert Bourassa on the tax reform proposal, Federal-Provincial Committee of Ministers of Finance and Provincial Treasurers, Winnipeg, June 5-6, 1970, p. 23 and government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 16-17.

174. Declaration by Robert Bourassa, Federal-Provincial Conference of the First Ministers on Energy, Ottawa, June 22-23, 1974.

175. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 13.

and involve the active participation of the provinces, in accordance with section 95 of the Constitution. Second, the distribution of these joint powers must be clear: Ottawa will have exclusive powers over the issuing of visas¹⁷⁶, but the provinces will acquire preponderant legislative jurisdiction in terms of settlement, integration and placement of immigrants. In addition, the provinces must participate in the recruiting and selection of foreign nationals who want to immigrate within their borders and must conclude agreements to that effect with the government of Canada.¹⁷⁷

Immigration: See also paragraph 135.

153. The elements of the Constitution affecting the administration of justice should be revised to strike a balance between federal and provincial responsibilities.¹⁷⁸ In addition, the respective responsibilities of the federal government and the provinces over custody of inmates should be redefined¹⁷⁹ and the provinces should have jurisdiction over narcotics prosecutions, such as those relating to the Criminal Code.¹⁸⁰
154. Québec proposes that the legislature of each province have exclusive jurisdiction over arts, letters and cultural heritage within the province.¹⁸¹ The

Québec government must have sole jurisdiction over Québec's heritage. Therefore, there is no question of any element of Québec's heritage being included as part of some Canadian heritage determined by the federal government.¹⁸²

Culture: See also paragraph 138.

c) Unilateral powers

155. Québec proposes that the federal government not exercise its power to pass laws regarding peace, order and good government in areas of exclusive provincial jurisdiction except in the case of a national emergency.¹⁸³
156. The federal government must not use its declaratory power unless the province concerned gives its assent.¹⁸⁴
157. Though ideally the federal power to spend in areas of provincial jurisdiction should not exist, Québec is prepared to agree to it provided any province that does not participate in a joint program be entitled to financial compensation that would guarantee its freedom to abstain.¹⁸⁵

Shared-cost programs: See also paragraphs 171-173.

158. Québec proposes that the federal spending power in areas of provincial jurisdiction be subject to the prior

176. Jean Bienvenue, Minister of Immigration, *La position du gouvernement du Québec à la suite de la publication du Livre vert fédéral sur la politique canadienne d'immigration*, April 1975, document tabled in the Québec National Assembly on May 23, 1975.

177. Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 7.

178. White Paper, *La justice contemporaine*, presented by Jérôme Choquette, Minister of Justice, April 1975, p. 32.

179. Statement by the Minister of Justice, Federal-Provincial Correctional Sector Conference, Victoria, May 22-23, 1975.

180. Press release, Federal-Provincial Conference of Attorneys General, Vancouver, June 17-18, 1976.

181. Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 7.

182. Speech by Jean-Paul L'Allier, Minister of Cultural Affairs, Heritage Canada annual banquet, September 17, 1976.

183. Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 5.

184. *Ibid.*, Schedule 6.

185. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 16.

agreement of the majority of governments (according to the Victoria Charter formula), and that each province have the authority to decide how amounts allocated for use within its borders are to be applied to implement the programs.¹⁸⁶

159. Québec recommends that the residuary power be transferred to the provinces.¹⁸⁷

••• Individual and language rights

160. The Québec government favours the adoption of a Constitutional Charter of human rights. However, this charter should not prevent the adoption of complementary charters at the federal or provincial level, nor change the distribution of powers.¹⁸⁸

161. Considering that in the majority of cases, protection of human rights comes under provincial jurisdiction, Québec feels it is essential that the respective fields of application of federal and provincial legislation be clearly defined.¹⁸⁹

162. Language legislation constitutes recognition that in areas that embody Québec's distinct characteristics, legislation passed for the country as a whole is not necessarily appropriate for Québec society. With Bill 22, the government acknowledges that only Québec can legislate in this sector.¹⁹⁰

••• Institutions

163. Québec requests the institutionalization of an annual First Ministers Conference on the economy to be used as a special vehicle for coordinating and planning federal and provincial economic policies.¹⁹¹

164. Québec believes that the creation of a constitutional court representative of the federation is essential to maintaining a new constitutional balance.¹⁹² Moreover, the provinces should be able to submit names of candidates for appointment to the Supreme Court and refer legal questions to the Supreme Court and that their approval be required for changing the jurisdiction of the Supreme Court.¹⁹³

••• Intergovernmental policy

a) Conducting intergovernmental relations

165. The Québec government must be involved in the central government's decision-making process on questions with a significant influence on Québec's economic, social and cultural development.¹⁹⁴

166. The government's main priorities in terms of federal-provincial relations are: 1) the issue of financing, with a view to achieving a distribution of resources

186. Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 3.

187. *Ibid.*, Schedule 4.

188. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 19.

189. Declaration by François Cloutier, Minister of Intergovernmental Affairs, Federal-Provincial Conference on Human Rights, Ottawa, December 11-12, 1975, p. 3.

190. Speech by Jean-Paul L'Allier during the debate on the second reading of Bill 22, Minister of Communications, Québec National Assembly, *Journal des débats*, July 13, 1974, p. 1789-1790.

191. Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 10-11.

192. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 20.

193. Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 14.

194. Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 5. See also statement by Robert Bourassa, Québec National Assembly, Standing Commission on the Constitution (Victoria Conference), *Journal des débats*, May 18, 1971, p. B-1273.

that is more consistent with the constitutional responsibilities of the federal and provincial governments; 2) economic development, specifically concerning regional disparities and unemployment; 3) social development, especially income security problems; 4) Québec's cultural affirmation.¹⁹⁵

b) Financial aspects of federalism

167. Each order of government must have access to sufficient revenue to cover the cost of programs under its jurisdiction.¹⁹⁶

Financial autonomy: See also paragraphs 138 and 166.

168. Regarding fiscal and economic issues, coordination of federal and provincial initiatives needs to be improved both to enable Canadian federalism to carry out its function of redistributing wealth across the country and to give rise to genuine cooperative efforts.¹⁹⁷

169. Redistribution of wealth among provinces is not limited to equalization payments. The regional effects of the central government's total revenue and spending must also be taken into account, so that the shortfall in federal spending in Québec does not cancel the redistributive effect of equalization.¹⁹⁸

170. Québec proposes the creation of an economic assistance fund that would play a short-term compensating role

by correcting the regional impact of an unfavourable economic situation or of federal policies that exacerbate the unemployment rate in some provinces. Financed from certain federal taxes, this fund would make both unconditional payments and loans at preferred interest rates.¹⁹⁹

171. Québec announces that it wishes to end the provisional arrangements concerning hospital insurance and health insurance programs and replace them with a definitive opting-out formula. This formula would involve unconditional payments.²⁰⁰

172. With respect to fiscal compensation for opting-out of shared-cost programs, Québec prefers to collect its own taxes rather than receive financial compensation.²⁰¹

Shared-cost programs: See also paragraph 157.

173. Québec submits three proposals for the fiscal arrangements:

a) federal withdrawal from three joint programs (health insurance, hospital insurance, post-secondary education), in exchange for a satisfactory unconditional transfer to the provinces;

b) elimination of the tax receipts guarantee program and integration of the amounts involved in

195. Inaugural Speech, Québec National Assembly, *Journal des débats*, March 15, 1973, p. 1 (quotation).

196. Statement by Robert Bourassa, Federal-Provincial Conference of Ministers of Finance, Winnipeg, June 5-6, 1970, p. 26 and government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 16-17.

197. Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 2, 10 and 11.

198. Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of Finance Ministers, Winnipeg, June 5-6, 1970, p. 38-40.

199. *Ibid.*, p. 31-33 and statement by Robert Bourassa, First Ministers Conference, Ottawa, November 15-17, 1971, p. 22.

200. Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 31.

201. *Ibid.*, p. 40.

other transfers to the provinces including a substantial portion in equalization;

- c) an equalization formula based on a global indicator of wealth that

would equalize all or a fixed proportion of provincial, municipal and school revenues at a level above the national average.²⁰²

*Economic federalism and constitutional reform:
See paragraph 131.*

202. Opening statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, June 15-16, 1976.