

GOVERNMENT OF RENÉ LÉVESQUE

(PRE-REFERENDUM PERIOD,
NOVEMBER 25, 1976 TO MAY 20, 1980)



••• Status of Québec

174. The Sovereignty-Association Project²⁰³

The government of René Lévesque was elected in November 1976. Its program consisted in holding a referendum in Québec to address the issue of the Sovereignty-Association project with Canada.

In 1979, the government published a white paper²⁰⁴ explaining its project that was submitted by referendum on May 20, 1980, a first exercise in popular consultation under the aegis of the Québec Referendum Act.

The Sovereignty-Association project sought Québec accession to political sovereignty within the framework of a new agreement for economic association with Canada. This meant establishing a new relation between Canada and Québec where both parties would

be international entities and relations between them would no longer be governed by a constitution, but rather by a treaty of association. However, they would continue to have a single tariff and a single currency. The nature of the proposed association would be that of a monetary union.

The project specified several of the major characteristics of Québec sovereignty: adoption of all laws and taxes by the Québec National Assembly; the territorial integrity of Québec; creation of Québec citizenship; preservation of rights legally vesting in the anglophone minority; the Amerindian and Inuit communities would have institutions on their lands designed to protect the integrity of their societies and enable their free development; continuity in treaty-making affairs; participation and admission to certain international organizations; Québec courts alone would be empowered to administer justice in Québec.

As for the treaty on community association planned by the government of Québec, its purpose would be to preserve the current economic space. It would have defined shared areas of activity (free circulation of goods and individuals, monetary union) and those subject to the harmonization of national policies and legislation (railway, maritime and air transport, labour market regulations and right of establishment, cyclical policies, overall equilibrium of the balance of payments, monetary stability and defence).

203. Paragraph 174 is a synthesis of the government project.

204. Government of Québec, *Québec-Canada: A New Deal. The Québec Government Proposal for a New Partnership Between Equals: Sovereignty-Association*. An extract from this white paper is reproduced in Part 3: see document no. 11. On the government project, see also the statement by René Lévesque regarding the referendum question before the Québec National Assembly, December 20, 1979 (See part 2 of this document).

In addition, the creation of certain common Québec-Canada institutions was considered, institutions that would be administered under the treaty. In this respect, the project included the creation of a Community Council, a Commission of Experts, a Court of Justice and a Monetary Authority (a parliamentary assembly could have also been examined without per se being included in the project). The operations of these institutions were to recognize the principle of legal equality among partners, which in some cases would be a right of *veto* for Québec and, in other cases, a deliberative voting power proportionate to its demographic and economic weight.

The mandate for negotiating Sovereignty-Association that the government asked of the population during the May 20, 1980 referendum was rejected, since the No vote was confirmed by 59.56% of the electors and the Yes vote received 40.44%.²⁰⁵

175. That the Members of the [National] Assembly do reiterate firmly and explicitly their belief in the principle that Quebecers only have the ability to decide on their constitutional future, in accordance with the rules and provisions that the Assembly will see fit to adopt.²⁰⁶

176. A lasting solution to the constitutional issue presupposes recognition of the Québec-Canada duality.²⁰⁷

••• Constitutional reform process

177. Québec will never agree, under the existing system, to the patriation of the Constitution and to an amending formula as long as the whole issue of the distribution of powers has not been settled and Québec has not been guaranteed all the powers it needs for its development.²⁰⁸

178. Québec is of the view that reform of the division of powers must precede that of central institutions, including the Senate.²⁰⁹

••• Distribution of powers

a) General principles

179. The federal government should eliminate certain activities in areas where the provinces have more or less similar programs that match their needs more closely. It should also abstain from carrying out tasks which the provincial governments can do more economically and effectively.²¹⁰

180. To resolve economic problems, the federal government must comply with agreements already signed instead of modifying them unilaterally, and, to prevent economic problems from being lost in jurisdictional squabbles, it must respect the jurisdiction of provincial governments.²¹¹

181. The Canadian economy is not a large homogeneous whole that can be suc-

205. Directeur général des élections du Québec, *Rapport des résultats officiels du scrutin, Référendum du 20 mai 1980*, 1980, p. 19 (an extract of the Official Report and the text of the referendum question may be found in part 3: document no. 12).

206. Resolution of the Québec National Assembly dated May 4, 1978 (quotation; see part 3: document no. 10).

207. Gouvernement du Québec, press release, Federal-Provincial Conference of the First Ministers, Ottawa, October 30 and November 1, 1978.

208. *Ibid.* See also *Dossier sur les discussions constitutionnelles 1978-1979*, presented to members of the Commission parlementaire de la Présidence du Conseil et de la Constitution by Claude Morin, Minister of Intergovernmental Affairs and Marc-André Bédard, Minister of Justice, January 12, 1979: note on the patriation and amendment of the Constitution, p. 30.

209. *Dossier sur les discussions constitutionnelles 1978-1979*, note on the Senate, p. 27.

210. Statement by René Lévesque, Federal-Provincial Conference of the First Ministers, Ottawa, February 13-15, 1978, Canadian Intergovernmental Conferences Secretariat (CICS), doc. 800-7/056, p. 7.

211. *Ibid.*, p. 7, and declaration by René Lévesque at the end of the conference, First Ministers Conference on the Economy, Ottawa, November 29, 1978, CICS, doc. 800-9/086.

cessfully controlled and manipulated using standard policies and formulae. Provincial governments are in the best position to act, since they know their own economic context and its component factors, i.e. resources, industrial structure, domestic market, social climate, etc.²¹²

Reform of the distribution of powers as Québec's priority: See paragraphs 177-178.

b) Sectorial jurisdictions

182. Québec proposes a territorial partition of the Gulf of St. Lawrence, by means of lines equidistant from the shores of the Gulf, according to an agreement reached in 1964 between Québec and the Atlantic provinces.²¹³
183. Concerning ore and other resources located outside the immediate territory of the provinces in the 200-mile economic zone, Québec advocates concurrent jurisdiction with provincial legislation taking precedence. The exception would be the distribution of mining duties among provinces, where federal authority could take precedence until the provinces concerned reach an agreement on the matter.²¹⁴
184. The provinces should have exclusive jurisdiction over fisheries within their territory. Outside the Gulf of St. Lawrence, in the 200-mile economic zone, Québec would be prepared for concur-

rent jurisdiction. With the exception of distribution of quotas where federal authority would take precedence, provincial legislation should have priority.²¹⁵

185. The Québec government should have primary responsibility for strategies to modernize and convert certain industries in Québec, though it agrees with the need for cooperation with the federal government in this matter. Québec has frequently asserted that it considers itself in the best position to provide effective assistance to small and medium-sized businesses.²¹⁶
186. Québec considers that it is primarily responsible for defining its industrial strategy, while acknowledging the need for cooperation with the federal government in the matter.²¹⁷
187. The rules concerning the interventions of both governments in the area of scientific research must be redefined. The aim should be a fair distribution of resources, recognition of Québec's needs and priorities, respect for Québec's development policies, and concerted action and coordinated initiatives by those involved. The federal government must not intervene in the area of scientific research in Québec without the prior agreement of the Québec government, which has primary responsibility for science policy.²¹⁸

212. Statement by René Lévesque, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-9/040, p. 6.

213. *Dossier sur les discussions constitutionnelles 1978-1979*, note on off-shore resources, p. 19.

214. *Ibid.*, p. 19.

215. *Ibid.*, note on fisheries, p. 17.

216. Québec document on industrial development, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-9/050, p. 11.

217. Statement by Rodrigue Tremblay, Minister of Industry and Commerce, Federal-Provincial Conference of Ministers of Industry, Ottawa, January 30, 1978, CICS, doc. 830-45/006, p. 14.

218. *Ministre d'État au Développement culturel, Pour une politique québécoise de la recherche scientifique*, Québec, Éditeur officiel du Québec, 1979, p. 72-73.

188. It is essential that any future cultural policy for Canada fully recognize the distinct cultural character of Québec, insofar as the development, promotion and protection of this character are concerned. How can this be achieved except through the Québec government's control over the sector that influences culture on a daily basis: communications?²¹⁹
189. The necessity of Québec's intervention in the area of communications rests on the imperatives of civilization, cultural necessities, and its responsibility to develop and apply a coherent communications policy. [...] The Québec government, a daily participant together with the population in the life of Québec, is in the best position to appreciate the reality of Québec and reflect that reality in appropriate regulations.²²⁰
190. The Québec government would like to see a constitutional power-sharing formula used in communications. This formula proposes that when a provincial law requires provincial telecommunications companies to obtain an operating licence, any federal company operating or wishing to operate in Québec should hold a licence from the provincial regulatory agency.²²¹ Québec maintains that pay-TV falls within its jurisdiction.²²²
191. It is essential that the Québec government participate on at least an equal footing with the federal government and other provincial governments in developing policies on satellites and in decision-making.²²³
192. Since mineral resources and their management are under provincial jurisdiction (BNA Act, Sec. 109), it is up to the provinces to decide on the best ways to ensure the viability and growth of their mining industry.²²⁴
193. Québec considers it is in the best position to design and implement an appropriate economic development policy for its people.²²⁵
194. Québec maintains that the provinces have exclusive ownership of their natural resources.²²⁶
195. Québec demands provincial access to all forms of taxation, except customs duties.²²⁷
196. Provinces that wish to should be able to exercise exclusive jurisdiction over tourism and receive the unconditional transfer of federal funds currently allocated for this purpose.²²⁸

219. Opening statement by Denis Vaugois, Minister of Communications, Federal-Provincial Conference of Ministers of Communications, Toronto, October 16-17, 1979 (quotation), CICS, doc. 800-11/027, p. 3.

220. Government of Québec, document on federal legislation and delegation of powers, Federal-Provincial Conference of Ministers of Communications, Charlottetown, March 29-30, 1978 (quotation), CICS, doc. 830-39/018, p. 4.

221. *Ibid.*, p. 6.

222. Government of Québec, document on pay-TV, Federal-Provincial Conference of Ministers of Communications, Charlottetown, March 29-30, 1978, CICS, doc. 830-39/32, p. 2; see also the document of the Government of Québec, Federal-Provincial Conference of Ministers of Communications, Toronto, October 16-17, 1979, CICS, doc. 830-54/022, p. 2.

223. Government of Québec, document on policies relating to satellites, Federal-Provincial Conference of Ministers of Communications, Toronto, October 16-17, 1979 (quotation), CICS, doc. 830-54/022, p. 2.

224. Declaration of the government of Québec, Federal-Provincial Conference of Ministers of Mines, Toronto, January 19-20, 1978 (quotation), CICS, doc. 830-9/009, p. 1.

225. Notes for a declaration by René Lévesque at the end of the First Ministers Conference on the Economy, Ottawa, November 27-29, 1978 (quotation), CICS, doc. 800-9/086, p. 2.

226. Statement by Yves Bérubé, Minister of Energy and Resources, First Ministers Conference on Energy, Ottawa, November 12, 1979, CICS, doc. 800-11/027, p. 8.

227. *Dossier sur les discussions constitutionnelles 1978-1979*, note on indirect taxation, p. 11.

228. Government of Québec, document on tourism, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-09/048, p. 2.

197. Québec demands complete and exclusive jurisdiction over recreation. The links between culture and recreation are too strong to allow another government body to intervene in Québec. The federal government's responsibility would be limited to funding.²²⁹
198. The Québec government claims primary responsibility for its cultural and natural heritage and demands that bilateral negotiations between Québec and Ottawa be opened immediately concerning the restitution of cultural properties, sites and historic places owned or managed by the federal government within Québec, as well as the integration of national historic parks and the Battlefields Park (Plains of Abraham) and federal parks into the Québec parks network.²³⁰
199. Québec demands that jurisdiction over all correctional services be ceded to the provinces, subject to the transfer of the corresponding financial resources. There seems to be little rational basis for the current division of responsibilities, the result being duplication in certain areas, including the administration and management of institutions, parole and community supervision.²³¹
200. Social services areas come under the exclusive jurisdiction of the provinces.²³²
201. Health comes under the exclusive jurisdiction of the provinces.²³³
202. The provinces have exclusive responsibility for deciding whether or not to intervene in collective negotiations that come under their jurisdiction. Québec intends to maintain room to maneuver in labour relations, convinced that it and it alone must set its priorities in this area.²³⁴
- c) *Unilateral powers*
203. The federal spending power should be limited solely to areas listed as within exclusive or concurrent federal jurisdiction. However, a decision is needed on the method of compensation for provinces that decide not to participate in federal programs.²³⁵
204. Québec demands the elimination of the federal declaratory power, given that provinces enjoy internal sovereignty over their areas of jurisdiction.²³⁶
- **Individual and language rights**
205. If all provinces were to demand a charter, Québec would oppose the inclusion of rights other than those that have been seriously tested in the courts, so as to avoid the disadvantages of an entrenched charter as much as possible.²³⁷
206. Québec is opposed to the inclusion in the Constitution of language rights that

229. Declaration by Claude Charron, Minister responsible for the Haut-Commissariat à la Jeunesse, aux Loisirs et aux Sports, Interprovincial Conference of Ministers of Sports and Recreation, Winnipeg, May 31 and June 1, 1977, taken from *Québec-Canada*, ministère des Affaires intergouvernementales, vol. 5, no. 3, May-June 1977, p. 1.

230. Press release from the office of Yves Duhaime, Minister of Tourism, Game and Fishing, Federal-Provincial Conference on Parks, Victoria, September 25 and 26, 1978.

231. Press release, office of the Minister of Justice, Federal-Provincial Conference of Attorneys General and Ministers responsible for Correctional Services, Ottawa, June 27, 1977, CICS, doc. 830-32/023.

232. Statement by Denis Lazure, Minister of Social Affairs, Federal-Provincial Conference of Ministers of Social Welfare, Ottawa, March 6-7, 1978, taken from *Québec-Canada*, ministère des Affaires intergouvernementales, vol. 7, no. 3, March 1978, p. 2.

233. Statement by Denis Lazure, Minister of Social Affairs, Federal-Provincial Conference of Ministers of Health, Ottawa, June 22-23, 1977, taken from *Québec-Canada*, ministère des Affaires intergouvernementales, vol. 5, no. 4, July 1977, p. 2.

234. Notes for the Québec delegation on the issue of labour relations in the post-controls period. Federal-Provincial Conference of First Ministers, Ottawa, February 13 to 15, 1978, CICS, doc. 800-7/062, p. 1 and 5.

235. *Dossier sur les discussions constitutionnelles 1978-1979*, note on the federal spending power, p. 6.

236. *Ibid.*, note on the declaratory power, p. 7.

237. *Ibid.*, note on the charter of rights and freedoms, p. 23 (quotation).

would limit its freedom to maneuver in a sector so vital to its future as a society. Québec cannot accept that its autonomy in this area be replaced by a limited authority subject to interpretation by the courts.²³⁸

*Education in the language of the minority:
See paragraph 215.*

••• Institutions

207. The goal of Senate reform must be real representation of the provinces at the central level, and their participation in the exercise of federal power. However, if the Upper House is truly to represent the provinces, its members must be appointed by provincial governments for a limited term. Furthermore, Québec believes it would be difficult to determine the composition and powers of a new Upper House in which the provinces would participate in the exercise of federal powers as long as these powers have not been redefined. In general, on the Senate issue, Québec reiterates the Johnson position of 1968. The Senate's composition and operation should reflect the Canadian duality.²³⁹

*Federal institutions and Québec priorities:
See paragraph 178.*

208. Québec seeks the creation of a constitutional court the majority of whose judges would be directly appointed by the provinces. Furthermore, if a matter referred to a court raises a constitutional issue that is deemed serious,

procedures should be suspended and the issue immediately referred to the constitutional court.²⁴⁰

209. Québec demands that the Québec Court of Appeal be the court of final appeal in matters relating to Québec civil law, and that each order of government be charged exclusively with appointing judges to courts under its own jurisdiction, which, consequently, would cover judges of the Superior Court and the Court of Appeal.²⁴¹

210. Québec is opposed to any increase in the Governor General's authority.²⁴²

••• Intergovernmental policy

a) Financial aspects of federalism

211. Québec objects to the many federal cutbacks that are gradually forcing it into an increasingly difficult financial situation, in the hopes of leading it to recognize as its own federal priorities, federal programs, federal distributions to citizens.²⁴³

212. Québec demands a new distribution of taxation that reflects the provinces' relatively smaller fiscal leeway compared to the federal government and the special situation of Québec, which is different from that of other provinces owing to the implementation of its own programs and has resulted in a considerable increase in Quebecers' tax burden and public indebtedness.²⁴⁴

Taxation: See also paragraph 195.

238. Letter from René Lévesque to Prime Minister Pierre Elliott Trudeau, September 9, 1977.

239. *Dossier sur les discussions constitutionnelles 1978-1979*, note on the Senate, p. 27.

240. *Ibid.*, note on the Supreme Court, p. 25.

241. *Ibid.*

242. *Dossier sur les discussions constitutionnelles 1978-1979*, note on the monarchy, p. 28.

243. Speaking notes for the Minister of Finance of Québec, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-9/036, p. 11.

244. Budget Speech delivered by Jacques Parizeau, Minister of Finance, Minister of Revenue and Chairman of the Conseil du Trésor, Québec National Assembly, *Journal des débats*, April 12, 1977, p. 593-595.

213. Québec proposes that the federal government make annual unconditional equalization payments to the provinces so that each province can, according to its fiscal capacity, provide comparable public services at comparable rates of taxation, with a view to reducing social and economic disparities in Canada.²⁴⁵

b) Aboriginal Nations

214. Three principles apply to the issue of aboriginal peoples: 1) any attempt to determine their future for them must be rejected; these communities are first and foremost responsible for making decisions on their development, which assumes they will fully discuss their social and cultural status; 2) aboriginal peoples must not be left to fend for themselves using only their own resources; they must be able to rely on

support from the Québec government; 3) aboriginal communities have a responsibility to develop institutions and strategies that suit their cultural development.²⁴⁶

c) French-Speaking and
Acadian Communities of Canada

215. The government of Québec proposes to the governments of the other provinces that would so desire as it does, enhanced access to schooling in the language of the minority and the drawing up of reciprocal agreements to such end. Québec is prepared to negotiate agreements with other provinces that would provide citizens of other provinces who settle in Québec with access to English schools according to the terms and conditions that apply to anglophones in Québec.²⁴⁷

245. *Dossier sur les discussions constitutionnelles 1978-1979*, note on equalization payments and regional disparities, p. 9.

246. *La politique québécoise du développement culturel*, volume 1, ministre d'État au Développement culturel, Québec, Éditeur officiel du Québec, 1978, p. 89 and 90.

247. Declaration by the Prime Minister of Québec on reciprocal education agreements, Eighteenth Annual Provincial Premiers Conference, St. Andrews, New Brunswick, August 18-19, 1977, CICS, doc. 850-8/012, p. 4 and 6.