

GOVERNMENTS OF RENÉ LÉVESQUE AND PIERRE MARC JOHNSON

(MAY TO DECEMBER 2, 1985)²⁸⁵



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Source: Archives nationales du Québec

••• Status of Québec

251. The federal framework of the current Constitution should be improved to ensure that Quebecers obtain the most favourable conditions possible for their development.

252. The Québec people have the inalienable right to democratically determine their constitutional future as they see fit.

••• Constitutional reform process

253. Recognition of the existence of the Québec people as such is the essential prerequisite to Québec's agreement to and participation in a new constitutional process.

254. Québec is prepared to reach a constitutional agreement with the rest of Canada, designed to repair the injuries done to Québec in 1981, provided

1) Québec's primary jurisdiction in terms of rights and freedoms is acknowledged; 2) the amending formula is changed to provide Québec with sufficient guarantees; 3) that the distribution of powers is rearranged and judicial institutions are reformed.

••• Constitutional amending procedure

255. It should be recognized that Québec has a *veto* over both the reform of federal institutions and the creation of new provinces.

256. Regarding changes to the distribution of powers, Québec should have a *veto* or constitutional right to opt out with reasonable and mandatory financial compensation.

••• Distribution of powers

a) *Sectorial jurisdictions*

257. The distribution of constitutional powers should be revised so as to:

- a) confirm Québec's full control over the manpower and all associated areas;²⁸⁶
- b) recognize Québec's primary authority for the general direction of its economic development;
- c) acknowledge Québec's primacy of jurisdiction in the area of immigrant selection and settlement in Québec;
- d) grant Québec a significant increase in its powers in communications;
- e) recognize Québec's exclusive jurisdiction over marriage and divorce;

285. Unless indicated otherwise, the following positions are taken from the document *Draft Agreement on the Constitution. Proposals by the Government of Québec*, May 1985 (Part 3: document no. 20).

286. See also the note of the government of Québec concerning job creation and vocational training, First Ministers Conference, St. John's, Newfoundland, August 21 and 22, 1985, CICS, doc. 850-31/019, p. 68-69.

f) recognize, in terms of international relations, Québec's unique situation whenever its jurisdiction and identity are at issue, particularly as part of French-Speaking Communities.²⁸⁷

258. The National Battlefields Commission has jurisdiction over historic sites that are significant in the history of Québec such as the Plains of Abraham and the Parc des Braves that are located in the heart of the Québec capital. Québec requests that this commission's responsibilities be transferred to it.²⁸⁸

Culture and education: See paragraph 270.

Negotiations for liberalizing exchanges and distribution of powers: See paragraph 272.

b) Unilateral powers

259. The federal spending power should be constrained so that payment of conditional grants to the provinces is subject to the agreement of a majority of them. Any province refusing such grants should receive fair compensation.

260. The reserve and disallowance powers should be abolished.

•• Individual and language rights

261. The Canadian Constitution must recognize Québec's exclusive right to decide its official language and to legislate on any language issue within its jurisdiction.

262. Québec would guarantee the right of the anglophone minority to retain its cultural and educational institutions,

and receive health care and social services in its language.²⁸⁹

263. Québec is prepared to amend the Charter of the French Language to guarantee that children of parents who received their elementary education in English in Canada will have access to English schools; in return, it expects that children eligible for French education everywhere in Canada will be able to effectively exercise the guarantee accorded by section 23.²⁹⁰

264. Only sections 3 to 5 of the Canadian Charter should continue to apply in Québec.

265. Québec's legislation should have the authority to subject its legislation solely to the Québec Charter of Rights and Freedoms, so that it could include the Charter in the Constitution of Québec.²⁹¹

Primary responsibility of Québec in matters of rights and freedoms: See paragraph 254.

••• Institutions

266. The Constitution should explicitly recognize that three of the nine judges of the Supreme Court of Canada are to be appointed from Québec and that the position of Chief Justice is to be filled according to the principle of linguistic alternation.

267. Québec should have the constitutional right to participate in the appointment of Supreme Court of Canada judges from Québec. Its agreement should be obtained before their appointment by the federal government.

287. Position reiterated in *Le Québec dans le monde, Le défi de l'interdépendance, Énoncé de politique de relations internationales*, gouvernement du Québec, Ministère des Relations internationales, June 1985, p. 8. Regarding French-Speaking Communities, see the *Agreement between the government of Québec and the government of Canada pertaining to the Francophone Summit*, November 7, 1985 (Part 3: document no. 21).

288. Letter from Pierre Marc Johnson, then Minister responsible for Canadian Intergovernmental Affairs, to Tom McMillan, federal Minister of Environment, Québec, November 5, 1985.

289. See also speech by Pierre Marc Johnson, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, Ottawa, May 25, 1985.

290. *Ibid.*

291. See also speech by Pierre Marc Johnson, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, Montréal, May 29, 1985.

268. Only judges who are from Québec and trained in civil law should decide matters of civil law.

269. Québec should have the power to appoint, following consultation with the federal government, judges to Québec Superior Courts.

••• **Intergovernmental policy**

a) Conducting intergovernmental relations

270. Payments of federal grants to individuals and institutions working in the areas of culture and education should be subject to Québec's prior approval.

b) French-Speaking and
Acadian Communities of Canada

271. To support the development of francophone minorities, Québec is prepared to negotiate mutual assistance agreements with the government of any other province.

French education: See paragraph 263.

c) Trade

272. The Québec government's support for holding negotiations on free trade comes with a certain number of conditions: 1) Québec wants to participate in the entire negotiation process (determination of objectives and mandates) and in the negotiation itself through the presence of representatives from Québec on the negotiation team; 2) transition, reassignment and job protection measures must be developed jointly by the federal government and the provinces to facilitate the adaptation of workers, businesses and regions to the changes resulting from a change in the trade system [...]; 3) in accordance with the Constitution of 1867, Québec will only consider itself bound, in areas within its jurisdiction, if it has given its consent.²⁹²

292. Statement by Pierre Marc Johnson, First Ministers Conference on the Economy, Halifax, November 28-29, 1985, CICS, doc. 800-21/031, p. 6 (quotation).