

***R*conciliation: A Québec View.** Speech by Claude Ryan, Minister of Education, Minister of Higher Education and Science, Minister responsible for the administration of the French Language Charter, given at a seminar on language rights and policies, Kingston, December 8, 1989 (extract).

[...]

To fully understand the meaning of Meech Lake in the eyes of Québec, we must remember the significant work accomplished in Canada over a quarter century on the linguistic and constitutional front. Since the Quiet Revolution of the sixties, Québec has never ceased to assert its conviction that important changes must be made to the Canadian constitutional order. Two federal commissions, the Laurendeau-Dunton Commission in 1967 and the Pépin-Robarts Commission in 1979 studied these questions. By different paths, both arrived at converging conclusions. They both concluded that the answer to the uneasiness surrounding Québec-Canada relations should be sought at two levels, that of linguistic rights and that of equality between our two leading communities (or societies).

The well-known Dunton-Laurendeau Commission report summarized in these words the purely political aspect of the problem of equality: "We have in mind the power of decision of each group and its freedom to act not only in its cultural aspect but in all aspects of its collective life [...] We are concerned with the degree of control each of the two communities has over its government or governments." Applying this reflection to the case of Québec, the report goes on as follows: "Québec is the only province where francophones form a majority and the anglophones

a minority. Here, the weight of numbers favors francophones and it is a powerful lever [...] The problem can be succinctly formulated as follows: How can we integrate the new Québec in present-day Canada without curbing Québec's forward drive and without risking the breaking up of the country?"

Whilst using different terms, the Pépin-Robarts Report reached the same conclusion twelve years later. "We firmly express our conviction, said the authors of the Report: Québec is different and should be vested with the necessary powers to ensure the preservation and development of its distinct character within a viable Canada. Any political solution that would not satisfy these expectations would lead to a dismemberment of Canada."

Under Mr. Trudeau, the federal government implemented the recommendations of the Commission Laurendeau-Dunton on linguistic rights. However it totally ignored the conclusions reached by the Commission on the political dimension of the problem. As for the Pépin-Robarts Report, the federal government did not act on it and it was soon forgotten.

On the constitutional level the first major step since the publication of these reports was the adoption of the Constitution Act of 1982. Although it had some unquestioned qualities, the 1982 Act was adopted and implemented without Québec's approval. Today, Québec is judged in a severe, even cavalier manner as though it was chiefly responsible for the present confusion and uncertainty. It takes a great deal of unawareness, ignorance and arrogance to treat and judge Québec as though it was the aggressor. In reality it was the victim of an operation that for the first time since the beginning of the Confederation brutally excluded it from a major constitutional reform.

In light of our recent past, the Meech Lake Accord represents a welcome breakthrough under three different aspects. First of all, the Accord deals for the first time with the political dimension of the problem. Secondly, the Accord, as its name reveals, is the expression of a written agreement reached between and signed by the heads of all legitimate governments of Canada, including Québec. Finally, the Accord, although not complete and not perfect, brings some improvement in the areas of language and of sharing of powers, improvements that are significant for Québec and at the same time compatible with the proper functioning of the Canadian federation.

On the linguistic front, the Meech Lake Accord above all, retained attention because of the recognition we find therein of the distinct character of Québec society. It is important to underline that this recognition takes the form of an interpretive rule whose true meaning will reveal itself with decisions to be made in the future by the courts. By virtue of a clause in the Accord, Québec is recognized as having the responsibility of protecting and promoting its distinct character. However, Québec equally accepts to be tied to another clause of the Accord which obliges the federal government and the provinces to protect the fundamental characteristic of Canada consisting in the existence in this country of French-Speaking citizens concentrated in Québec but also present in the rest of the country and of English-Speaking Canadians concentrated in the rest of the country but also present in Québec. I do not see in what respect these clauses of the Accord may constitute a danger to the integrity of the country. They were almost literally reproduced from the recommendations already made by the Pepin-Robarts Commission in 1979.

With respect of the division of powers, the Meech Lake Accord represents important

gains for the provinces. It defines, in this regard, a significant re-adjustment whose main elements, from the viewpoint of a Quebecer, strike me as being the following:

- a) the article which enlarges the right of *veto* of the provinces to amendment touching notably the proportional representation of the provinces in the federal parliament, the powers of the Senate and nominations to this body, the nominations to the Supreme Court, the creation of new provinces and the extension of existing provinces all respond to requests frequently expressed by Québec. These clauses will permit, if they are ratified, the prevention of the deplorable repetition of constitutional experiences such as the one of 1982;
- b) the article guaranteeing the right of a province to withdraw in return for fair financial compensation in the case of any amendment implying a transfer of powers represents a significant enlargement in comparison to the clause which we find in the Constitutional Act of 1982. This enlargement responds to a desire frequently expressed by Québec;
- c) the articles relative to the nomination of members of the Senate and the Supreme Court create a new dynamic by implicating both the provinces and the federal authority in the nomination process. Despite the risks of an impasse that they carry, these clauses are susceptible to contribute to the quality and representativity of the nominations;
- d) the section relative to immigration permits to recognize the particular situation of Québec in matters of immigration. It provides the necessary constitutional means so that this situation is taken into account in Canadian immigration policies;

- e) the section relative to the federal spending power provides interesting precisions for both Québec and the rest of Canada. Without rendering judgment on the power to spend to institute programs in fields of provincial competence exercised at times by the federal government—the Accord recognizes the right of a province to withdraw, matched with financial compensation in regards to these programs on the condition that this province can offer a program compatible with national objectives. The coming onto scene of this concept of national objectives is another major innovation of the Meech Lake Accord.

Because the Meech Lake Accord represented the first valid response of the rest of Canada to the aspirations it has formulated for more than a quarter century and which came to confirm and reinforce two federal commissions of inquiry, Québec adhered quickly, without equivocation and without tergiversation, to this agreement, taking for granted that the other governments and their respective populations would do the same. After all the frustrations experienced over twenty-five years, after all the starts-ups we have witnessed, it would be profoundly deplorable that English Canada now seek to unilaterally and without valid reason renege upon the solemn commitment made by the federal government and all the provincial governments.

In light of what has been said and of certain recent developments, I wish to advance, in closing, some observations regarding possible paths of reconciliation between Québec and the rest of the country.

Firstly, it appears to me important to bear in mind that linguistic policy, as to its origin and application, stems from very different conceptions between Ottawa and

Québec. Québec faces this matter in a very particular historic, geographic and economic context which justifies an approach inspired by the principle of territoriality. The rest of the country, and in particular the federal parliament, are more inclined to adopt an approach which puts the emphasis on the equality of individuals, be they francophone or anglophone. Rather than opposing here two approaches and seeking to eliminate the effects of one by reference to criteria borrowed from the other, it would be more productive and more just to try to understand each approach. Québec, for its part, seeks to conserve its complete responsibility in matters of linguistic arrangements in its territory. The role of the courts within this perspective should be approached with prudence. Linguistic rights are rarely absolute rights. As the Supreme Court has already indicated, they are more often than not, the fruit of political and historical compromises. From this, we note the large differences that exist in this matter from one country to another and from one society to another. To seek to settle our linguistic policy debates by invoking fundamental liberties conceived to be applied mainly for other matters, is to risk engaging the country along an unrealistic path.

Québec is aware, on the other hand, of the negative effect which its policies regarding commercial signs and admissibility to English schools have had on public opinion in English Canada. On commercial signs, we do not share the opinion according to which the decisions taken by the National Assembly of Québec are a negation of fundamental individual liberties; rather, we believe that these decisions are related to public order and stem from the policy which seeks to publicly express the French character of Québec. Regarding admissibility to English schools, the experience of thirty years, from 1945 to 1975, had clearly

demonstrated that in the absence of a precise legal framework, immigrants, by more than 80%, opted for English language schools, even when their mother tongue was neither French nor English. This tendency resulted from the very strong attraction of English in North America.

Beyond these controversial cases, Québec scrupulously respects individual rights which are truly fundamental; it does so in light of a Charter of Human Rights and Freedoms which it gave itself in 1975 and which overrides all other laws adopted since that date. Québec equally accords to its minority a treatment, which in a very general manner, compares more than advantageously with what we may observe elsewhere in Canada. However that may be, misunderstandings have occurred, to which we must pay close attention. Québec will remain disposed to examine with respect representations of which it may be apprised in this matter. It loyally seeks any improvement susceptible to creating a more serene climate in regards to relations between anglophones and francophones without at the same time compromising the fundamental objectives of its policy.

Thirdly, it appears to me as important that we continue in federal institutions, to practice a policy inspired by the principles which over the past twenty years have marked interventions by Ottawa in this domain. Even though the idea of a perfectly symmetrical bilingualism at the level of the provinces and regions would be unrealistic, this ideal remains worthy of our common adherence at the level of federal institutions. The ideal of federal bilingualism is defined, in part, in the Constitution itself and in part in the federal official Languages Act. Excepting the provisions in this latter law which could serve as a pretext for federal interventions contrary to the fundamental orientations of Québec's

linguistic policy, the objectives defined in Bill C-72 appear to me as just and worthy of being pursued.

Fourthly, we are, in regards to Meech Lake, proceeding towards a crossroads whose consequences are likely to be very serious for the future of the country. It is essential that English Canada respects the word given through the signature of its political leaders. This is all the more essential that after having had the representations of the legislatures which have yet to ratify the Accord, we are forced to conclude, just as the Attorney General of Ontario, Mr. Ian Scott recently did, that note of the arguments put forward to contest the Meech Lake Accord resists a serious critique. The consequences of a refusal of the Meech Lake Accord, would, in my view, be disastrous for the unity and cohesion of the country. In Québec such a refusal would surely engender a reaction of heightened disaffection towards the federal Canadian project. We have however nothing to waste in this regard.

Finally, I believe, for the advancement of the debate, in the very large usefulness of exchanges which bring together university people, men and women politicians, journalists and commentators, communication specialists and leaders of business enterprises and labour associations. These exchanges may appear to be non-productive to those who judge them with narrow emphasis upon immediate results. However, they permit a sifting of opinions which advances the debate by obliging each participant to clarify his ideas by confronting them with those of others. A Conference like this one favours exchanges which are free, more spontaneous, more unbiased than those that take place between governments. The detachment which characterizes a meeting such as this is in a certain sense a weakness, since its immediate chances of influence on government decisions remain

limited. However, in the long run, it is often as a result of such meetings that new ideas take form and are subsequently translated into government choices. I hope that the exchanges of this Conference will help us to perceive in a spirit of greater openness

the real meaning of the problems to which we have the formidable responsibility of providing answers which will permit this country to survive and to reinforce itself in full respect of its undeniable diversity.

Source: Text of the speech, p. 11-21.