

Opening statement by Daniel Johnson, Sr.,
Prime Minister of Québec, given at
the first meeting of the Constitutional Con-
ference held in Ottawa, February 5, 1968.

[Translation]

Québec thanks the Prime Minister of Canada for calling this conference, which is but the logical follow-up of the dialogue initiated in Toronto last November.

We readily agreed to take part in it even though the items on the first agenda submitted for our consideration did not seem the most urgent or the most essential in present circumstances. Later, the Prime Minister of Canada accepted to widen the scope of the conference so that it would cover the constitutional problem as a whole, for which we are grateful.

At the Toronto conference, which all Canadians had the opportunity to attend through the television medium, we limited ourselves to examining and bringing into better focus a few of the basic elements of Canada's constitutional problem. Nevertheless, a new climate can already be felt which, of course, in itself is not a solution but which does encourage us to continue, with ever greater hopes, our search for an answer.

Personally, I was very impressed by comments which reached me from every corner of Canada after that historic meeting. I believe that during the past few years, thanks to the soul-searching and efforts of a great many Canadians of both cultures, much has been accomplished to breach the wall of misunderstanding which has divided our two solitudes for so long, that invisible, purely psychological barrier which, at times in our history, has proved harder to cross than many physical barriers.

In this era of interdependence and great ensembles which foster togetherness while pointing out differences, at a time when the prodigious development of communications is gradually shrinking the world we live in, it seems clear to me that Canada, with her cultural duality, her two international languages, her European affinities and her North American situation, can rightfully be expected to play a leading role in establishing peace and fraternity between men. But, how could she possibly live up to this expectation without first solving her own internal conflicts? How could Canadians promote better understanding between others if they themselves prove unable to understand each other?

In my opinion, our constitutional problem is as much a matter of communications as of structures. This psychological aspect of the problem is all the more important in that nothing we might achieve here or in subsequent endeavours would have the least chance of success without a general consensus on the part of the Canadian people. We are past the time when a constitution could be drafted by the select few behind closed doors, then forced upon the population in autocratic or paternalistic fashion. Days of colonialism have long gone and it is only natural that Canada, a sovereign country, should not go beyond the Canadian people in search of the supreme authority.

I would like to repeat in English these last two paragraphs. We do not claim to speak for French-speaking Canadians in other provinces but we wish to speak in the name of all Québec people, of whom 20 per cent are English-speaking.

Now, we all know that the Canadian people is not homogeneous. Although the adamant few still refuse to admit it, we all know that Canada is made up of two nations. What purpose can be achieved by

closing our eyes on this basic fact, which is supported by history, sociology and the collective will to live together?

Perhaps it has become for some people a purely academic exercise to ponder whether the British North America Act is or not the result of a pact, but there is no room for doubt as far as the future is concerned: in order to be valid, a new Canadian constitution will have to be the product of an agreement between our two nations.

And I believe that we shall all be the better for it.

To begin with, the new constitution will be the authentic work of Canadians. For the first time in our history, we shall have a constitution made entirely in Canada, by Canadians and for all Canadians.

This new constitution of our own invention will have the further advantage of conforming to today's realities and needs. We live in an era of extremely rapid change; so much so that, during the last few years, almost every great human institution has begun the process of self re-examination and self redefinition required in response to new conditions. In this context, ours is one of the rare countries in the world which has not yet rewritten its constitution; and I can hardly think of any which, once independent, wished to retain the constitution it was given when it was still a colony.

Our constitution will also stand a better chance of being clear if it is couched in contemporary language to answer today's concerns. In some respects, the British North America Act was based on a fundamental misunderstanding. Our two cultural communities have never agreed on the interpretation to be placed on some of its essential provisions or on a number of its omissions. This has provoked countless conflicts, nearly all of which were pointless since, after a century of discussions, disputes

and frustrations of every description, we are still wondering what these conflicts were really all about.

Thus, French Canadians greet with some astonishment the proposal to recognize French as an official language now, after a hundred years of Confederation, because they have always taken for granted that both our languages were official in Canada.

I simply cannot conceive that we might go on quarrelling for another century over the meaning and scope of our constitution. We need every last bit of our energy and resources to carry out desperately urgent tasks, particularly in the economic sector, on which the well-being of all Canadians depends.

This is why we need a constitution which will be a source of harmony and no longer of misunderstanding; a constitution which will describe things as they are and meet problems head on, instead of skirting them; a constitution with every provision written clearly and in full as befits a federal constitution; a constitution containing its own amending formula, but sufficiently sound and permanent to avoid being constantly challenged; a constitution which will depend for final interpretation on a tribunal whose composition will be such that no one will be tempted to question its impartiality.

In order to be realistic, this constitution must be conceived as the principle for organizing not only the ten-partner Canada but also the two-partner Canada. We see no objection in the fact that, in relation to certain problems, there should be ten provinces juridically equal despite their geographic and demographic dissimilarities; but on the other hand, we see no reason why, despite their numerical inequality, the same constitution should not give both de facto and de jure recognition to the equality of our two cultural communities.

Our new constitution must therefore take into account what the Laurendeau-Dunton Commission and the Prime Minister of Canada himself so aptly called "the political dimension of cultural equality." In fact, it is not enough to extend the use of French in federal institutions and acknowledge for French minorities in other provinces collective rights comparable to those already enjoyed by Québec Anglophones; this is only a partial solution. Above all, French Canadians must be able to use their majority position in Québec to provide themselves with the organizations, the institutions and the environment which will be perfectly suited to their culture and their aspirations.

Besides, the Laurendeau-Dunton Commission clearly stressed this necessity in the General Introduction preceding Book I of its Report. This introductory section is a document of major importance which throws remarkable light on the root of Canada's constitutional problem. For this reason, we have quoted several of its paragraphs verbatim in our brief, including these passages on "the collective aspect of the notion of equality." It is a question here, according to the Commissioners, of:

...the degree of self-determination which one society can exercise in relation to another...the extent of the control each has over its government or governments. This is the basis for the discussion of the constitutional framework in which the two societies can live or aspire to live...

...But as soon as the minority is aware of its collective life as a whole, it may very well aspire to the mastery of its own existence and begin to look beyond cultural liberties. It raises the question of its political status. It feels that its future and the progress of its culture are not entirely secure, that they are perhaps limited, within a political structure dominated by a

majority composed of the other group. Consequently, it moves in the direction of greater constitutional autonomy. Ideally, the minority desires the same autonomy for the whole of the community to which it belongs; but where it cannot attain this objective, it may decide to concentrate on the more limited political unit in which it is incontestably the majority group.

This viewpoint, so hotly opposed by some, is deeply entrenched in Québec. It has even been, in recent years, at the root of some of the most spectacular, if not the most serious, manifestations of the crisis in Canada. To ignore it in this Report would not only constitute an error; it would very likely mean that Québec would refuse to listen to us, and the English-speaking Canada would be deprived of the chance to become aware of an especially grave element in the present situation.

If there is a lesson to be learned from our history, it is this; French Canadians in Québec, who make up eighty-three per cent of Canada's French-speaking population, cannot be expected to entrust the direction of their social and cultural life to a government in which their representatives are in the minority and which is also subject to the workings of Cabinet responsibility and party discipline. Of course, they want a central government to handle problems common to both communities or questions which have no bearing on distinctive cultural or sociological traits; but Québec is where they spontaneously wish to turn for decisions pertaining to the establishment of the conditions necessary for development of their own personality and dynamism.

Indeed, this is the price of equality, for how could two cultural communities be equal if one had to depend on the other's good-will for its survival and growth?

In other words, if in a ten-partner Canada Québec is a province like the others, the situation is different in a

two-partner Canada. As the homeland and mainstay of French Canada, Québec must assume responsibilities which are peculiar to her; and it goes without saying that her powers must be proportionate to her responsibilities.

Does this mean that Québec must have a juridical status different from that of the other provinces? In itself, such a formula is not incompatible with federalism, whose essential characteristic is precisely its adaptability to all situations; but we are aware of the difficulties it would create and the misapprehensions it could cause. This is why, without rejecting a priori any other formula able to give our two communities the necessary freedom of action, we have already stated our preference for a constitution sufficiently decentralized to take into account Québec's own situation without, however, preventing the other provinces from entrusting to the federal government in part or in whole those duties they would prefer not to assume alone. Obviously, a new mechanism would be needed to divide fiscal revenues fairly according to each government's responsibilities.

We are convinced that such a system would leave Ottawa with all the authority it needs to carry out its obligations to Canada as a whole, particularly if the new constitution asserted the principle of participation as well as the principle of autonomy. These two principles, we all know, are the two fundamental laws of any workable federalism.

According to the principle of autonomy, member-states of a federation are given legislative and fiscal powers by the constitution itself and not by the federal state. Relations between the two orders of government must be on a level of co-operation, not subordination. I feel very strongly that in certain circles too little confidence is being placed in provincial governments.

Generally speaking, the historical and popular roots of these governments are found in the distant past, in some cases long before Confederation itself. The population spontaneously identifies with them. They are in a very good position to solve imaginatively and realistically the problems created by an evolving contemporary society. For these reasons, we feel that there should be no fear in giving residual powers to the provinces in Canada, as is done in most other federations of the world.

As for the principle of participation, it requires that member-states do take part in the federal decision-making process. This implies that one of the federal organs be a direct emanation of the federated states. Ordinarily, the Senate should play this role. If the central government reflected more adequately the principle of participation, both its prestige and authority would be strengthened.

If I have not so far talked about a declaration of rights, it is not because we question its importance but because we believe it cannot logically be set apart from the constitutional problem as a whole.

A very clear distinction must also be made between individual and collective rights. The former cannot be separated from civil rights, and must consequently come under provincial authority. We are now drafting a charter of human rights which we shall incorporate in Québec's internal constitution. As for collective rights, we certainly wish to see them proclaimed and guaranteed in the Canadian constitution; but we believe it is still more urgent and more efficient to embody them in our federal and provincial institutions.

That is something Québec has always done. She has never sought to interpret restrictively sections 93 and 133 of the Constitution. She did not wait for the

adoption of a charter of human rights before establishing equality throughout her territory for our two cultural communities. The Laurendeau-Dunton Commission Report corroborates this on several occasions. It is difficult to imagine a greater degree of freedom and self-determination than that which the English-speaking minority in Québec has always enjoyed. And we fully expect it to remain thus in the future. We would be very happy if from now on the French minorities in other parts of Canada could be accorded the same treatment.

In other respects, I want to reiterate that we have never sought to impose the French language on Canadians in other provinces where there is no need for it. We completely agree with the Laurendeau-Dunton Commission that, in a country like ours, it is the governments and the public services which must be bilingual wherever a sufficiently large number of Canadians of both cultures live together. And institutions are bound to bilingualism precisely because they must preserve the citizen's normal right to serve his country and to receive its services in his own language.

Some people are already gambling on our inability to come to any understanding. Are we going to turn up the missing card in their deck—the admission or proof of our failure?

Others also speculate on our failure, for totally different reasons. They are the ones who think that problems will take care of themselves if their existence is denied; that a light replastering job, refurbished here and there by a thin varnish of bilingualism will satisfy everyone; and that continued talk of national unity will cause the Canadian duality to disappear.

Let us have no illusions: in Canada the basic problems will not be solved by shifting subordination. To be more precise, let us say that the elimination of subordination

to another country will not automatically eliminate the danger of subordination to a central government which would claim the right to political hegemony.

Were it repeated *ad infinitum*, no one—at least among my fellow Quebecers, who have been here for over 300 years—could be made to believe that Canada began in 1867. Nor can anyone be made to believe that constitutions are immutable. We are already on our fourth in two centuries; why should it be impossible to draw up a fifth? Why should Canadians be incapable of accomplishing something which so many other countries, many of them infinitely more complex than Canada, have done successfully?

I am among those who believe that Canadians have enough insight, heart and will-power to find the solution to their problems and the key to their future. To sum up, Québec submits:

1. That the time has come for our country to give itself an entirely Canadian constitution made in Canada by Canadians and for all Canadians;
2. That this new constitution, as well as any future amendments to it, should be drafted and promulgated on behalf of a sovereign people without recourse to another country's parliament;
3. That the object of this constitution should be not only to federate territories but also to associate in equality two linguistic and cultural communities, two founding peoples, two societies, two nations in the sociological sense of the word;
4. That it is in no way necessary to break up the ten-partner Canada to build a two-partner Canada, but that it has become essential and urgent to create a two-partner Canada in order to maintain the ten-partner Canada;

5. That Book I of the Laurendeau-Dunton Commission Report on the official languages, as well as those still to be published, should be studied in the light of facts and principles brought forth in the General Introduction which to us is the most significant part;
6. That the equality to be established between our two cultural communities depends not only on extending bilingualism territorially but even more on extending the jurisdictions of Québec, the homeland of the French-Canadian nation;
7. That the root of Canada's constitutional problem will not have been tackled in a concrete and realistic manner until a study has been undertaken of a new distribution of powers between the two orders of government;
8. That a constructive way to review this distribution of powers would be to begin with fields where there is immediate urgency: social security, relations with other countries and international organizations, instruments of education and culture as well as the various theories and formulas which tend to give indefinitely expanding powers to the central government;
9. That the question of fundamental rights is closely linked with the constitutional problem as a whole and thus no decision can possibly be taken in this respect before agreement has been reached on certain basic reforms, particularly on the creation of a true constitutional tribunal;
10. That consequently, the next step should be to institute federal-provincial commissions, meeting simultaneously

with the aid of a joint secretariat to be set up without delay and working in co-operation with the interprovincial committee formed at the Toronto conference, and whose work could be divided into five main subject-matters:

- a) official languages and fundamental rights;
- b) distribution of powers;
- c) reform of the Senate, the Supreme Court and the other institutions linked with the federal system;
- d) fiscal incidences and regional inequalities;
- e) amendment procedure and provisional arrangements.

Québec knows the complexity of the task that lies ahead. We must innovate to a large extent and build a new type of country. This cannot be accomplished in a matter of weeks, nor even months. Still, we must remember that time is not on the side of today's Canada. The Canada we want to build for tomorrow will be for the young people of this country. The Québec delegation is not here to settle old scores, but to prepare the future and as long as we continue to act there will be hope. If we cannot agree now, could we expect to agree after separation? The answer to this question lies in its very formulation.

Mr. Chairman, so that nobody watching television will be in doubt as to the guilty party, let me be the one to right your "Canada" sign which someone—I don't know who—knocked over a moment ago.

Source: *Constitutional Conference, Proceedings, First Meeting, February 5, 1968, Ottawa*, Queen's Printer, 1968, p. 53-71; Government of Québec, *Opening Address by the Honourable Daniel Johnson, Prime Minister of Québec*, Canadian Intergovernmental Conference, Ottawa, February 5, 1968.