

Ministerial statement by Jacques Brassard, Minister for Canadian Intergovernmental Affairs, on territorial integrity of Québec, Québec National Assembly, November 12, 1997.

[Translation]

Québec has had to face, since the October 30, 1995 referendum, a multi-pronged strategy by the federal government that essentially aims to destabilize Québec's democratic institutions and deny not only our fundamental rights [...], but also the very existence of the Québec people. A key element in this strategy consists of conjuring up the spectre of partition of the territory of Québec in the event that it becomes sovereign.

The Québec government denounces the irresponsibility of people who resort to this partitionist rhetoric and, even more so, the irresponsibility of federal ministers and politicians who present the dismemberment of Québec as both a possibility and a defensible demand and who thus offer a moral endorsement to those who propound these arguments. All democrats, federalists, and sovereignists should clearly disassociate themselves from such talk. There has been moreover an unbroken continuity between all of Québec's prime ministers, whatever the party in power, and the representatives elected to the National Assembly. These people have always defended Québec's territorial integrity and have undertaken to continue to do so.

Partitionist arguments run counter to international law and to the practice of states in the attainment of sovereignty. It is worth recalling here the conclusions that were arrived at by the five international law experts consulted in 1992 by the Committee to Examine Matters Relating to the Accession of Québec to Sovereignty,

which the National Assembly had created. The committee sought an opinion from these five experts about the territorial integrity of Québec in the event of it becoming sovereign. In their report, which still is to date the most complete, serious study of the matter, the experts Franck, Higgins, Pellet, Shaw, and Tomuschat indeed confirm that, if Québec becomes sovereign, it will fully inherit the territory that is today its own and all of the powers relative to this territory that are currently exercised by the federal authorities, notably and including over the Indian reserves.

In addition, these five experts confirm that, before Québec's possible attainment of sovereignty, its territorial integrity will remain firmly guaranteed pursuant to the constitutional principles currently in force and that the delineation of its borders cannot, consequently, be altered against the will of the National Assembly. These experts also point out that, in light of the rights and benefits that have been granted them, the Cree and the Inuit of Québec have expressly renounced, in the James Bay and Northern Québec Agreement, their rights and claims to the territories covered by this agreement. Further, since Québec has a territory with well-defined borders, the experts confirm that, under international law, these borders will constitute *de facto* the borders of the new state of Québec. There exists, on the applicability of this principle, a shared legal opinion that international practice expresses, notably when the predecessor state is a federation.

Other reputed jurists, both in Québec and in the rest of Canada, share this opinion. Ruling on this same principle, the Arbitration Commission of the Peace Conference on Yugoslavia came down in favour of the stability of borders in cases where federated entities become sovereign. According to the Commission, "[...] for want of an agreement to the contrary, the previous

boundaries acquire the character of borders protected by international law. Such is the conclusion that the principle of respect for the territorial status quo leads to and particularly the principle of *uti possidetis juris*, which, although initially recognized in the settling of decolonization problems in the Americas and in Africa, today constitutes a generally applicable principle, as the International Court of Justice has declared.”

The territorial integrity of Québec is therefore guaranteed, prior to accession to sovereignty under Canadian constitutional rules, and after sovereignty by the firmly settled principles and imperatives of general international law. According to the categorical opinion expressed by five experts, there is no room for an in-between situation where different rules would be applied since accession to sovereignty is an instantaneous event that precludes any legal vacuum.

The five experts consequently conclude that the principle of legal continuity results in Québec's territorial integrity taking precedence over all claims that seek to dismember Québec's territory, whether these claims come from the “Aboriginal people of Québec, who benefit from all the rights belonging to minorities and are enhanced by rights recognized for Aboriginal peoples under contemporary international law, without there being a resulting right of secession; or from the English-Speaking

minority whose protection afforded under international law does not include any territorial effect; or from people residing near Québec's borders, who as such do not benefit from any specific protection under international law.”

The applicable legal principles are therefore totally clear. Québec's territorial integrity is guaranteed before, during, and after attainment of sovereignty. The Québec government thus condemns all attempts and invitations to deny or deform this reality for the purpose of creating polarization, sowing discord, and encouraging a degradation of relations between the various components of Québec society.

In this context, the Québec government considers null, void, and unenforceable the resolutions passed by certain municipalities that wish to endorse the temptation of partitionism. Québec's borders are geographical and historical. Never will the government agree to their being redrawn on the basis of linguistic, racial, or ethnic considerations.

Québec has a territory with precise and delineated borders. It will still be its own territory the day the Québec people freely decide to become sovereign. Such a move will be a democratic one and will be made within the framework of a constitutional state.

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