

more work to be done to further define this future form of self-government.

The debate on distinct aboriginal societies is not over yet. Sections 25 and 35 of the Constitution Act, 1982 recognize implicitly the distinctiveness of aboriginal peoples. It would be desirable to find a synonym instead of using the same expression to reflect the distinctiveness of First Nations.

3) Economic Union

Profound changes were made in the economic union proposal the government presented on September 24. The Montreal Conference clearly indicated that the federal proposal should be changed. A new form of economic union was developed at the end of February and accepted by all three parties. A new section 36.2 was recommended for inclusion in the Constitution Act, 1982.

4) Social Charter

The federal NDP and Premier Bob Rae of Ontario suggested a social charter. Once again a formula that was agreeable to all parties was found during the last few days. A new section 36.1 will be included in the Constitution Act, 1982.

The Parliamentary Committee recommends that both statements of principle concerning the economic union and social charter should not be justiciable. They do recognize values that will be a guidance to parliamentarians, but they should not be interpreted by the courts.

5) Canadian Common Market

A Canadian common market is provided for. The notorious section 121 of the Constitution is amended to include the free movement of persons, capital, and services. The three parties agreed on this.

• (1710)

[English]

With regard to the Supreme Court, the committee followed very closely the Meech Lake Accord. We proposed that there be three justices from Québec, trained in civil law, on the bench of the highest court of the land. Supreme Court justices would be appointed by the federal government from lists provided by the provinces. In case of a deadlock, the Chief Justice may appoint a judge on a temporary basis according to a simplified mechanism inspired by section 30 of the *Supreme Court Act*.

7: Immigration:

On this point also the committee followed the Meech Lake Accord. Let's say here that our report is endorsing in substance and in principle the five conditions of the Meech Lake Accord and adds considerably with respect to the reform of the Senate, the division of powers and the inherent rights of the aboriginal peoples.

With respect to the amending formula, we propose five options: (1) the four regional vetoes already recommended by the Beaudoin-Edwards report; (2) the Meech Lake Accord unanimity rule for the central institutions; (3) a formula inspired by the Pepin-Robarts report (referenda in four regions); (4) the 7/50 formula automatically involving Québec

in decisions regarding amendments to the central institutions; and (5) the 7/50 formula, involving Québec in all decisions. The final choice among those five options is left to the conference of the eleven first ministers.

With regard to section 40 of the *Constitution Act, 1982*, which deals with the transfer of provincial legislative powers to the federal Parliament under the 7/50 formula, we propose that financial compensation for provinces opting out be extended to all provincial powers or competences, and not only to education and other cultural matters as it is actually the case.

[Translation]

9) Distinct Society

The Committee recommends that the concept of distinct society be entrenched in Section 25 of the *Charter of Rights* and, by way of the Canada Clause, in the Constitution.

The notion of distinct society can be traced back to the *Quebec Act of 1774* by which the Parliament of Westminster introduced French civil laws to Québec, then a British colony. This was maintained in 1867 in sections 92.13, 94 et 98 of the *British North America Act*. In the *Constitution of 1867*, in agreement with Sir John A. MacDonald, Sir Georges-Étienne Cartier used the same expression, i.e. "property and civil rights", which first appeared in the *Quebec Act of 1774*.

The wording used to describe *distinct society* and linguistic duality drew some criticism. Some find the word "vitality" used in the distinct society and linguistic duality clause disturbing.

The word "promotion" in the definition of a distinct society is still present in our report and the word "vitality" appears when linguistic duality is discussed. The Supreme Court will, we feel, perceive a difference between the two. The word "promotion" seems stronger in our view.

10) The division of powers

This is at the very heart of federalism. In all federations, there is a question of centralization and decentralization. This is the very essence of a federal system. Federations vary over time, from one place to another, and from one another.

The division of powers has always been of great importance to Québec.

One can speak of asymmetry. Our report brings it up. Asymmetrical aspects appear in the Constitution of 1867, a thing which many tend to forget. The spirit in which the Halifax Conference took place in mid-January was for us a breath of fresh air in this regard. Let us hope that this spirit survives in Canada. There will be a great need for it in the coming months and in the government's final offer. One can imagine in this respect, if need be, 1) a few concurrent powers with federal paramountcy in some case, and provincial paramountcy in others; 2) direct asymmetry could also be used, as in the case of culture; 3) it would be possible, finally, to restrict its exercise in certain fields through the federal spending power.