

• (1610)

We were governed by the Council for nearly a century. Until September 1759, we were subject to the authority of the Sovereign Council of New France, and as we know from our history books, then came the battle of the Plains of Abraham. One party's victory was the other's defeat, so that the victory by General Wolfe on the Plains of Abraham ushered in a British military government.

For four years we lived quite peacefully under the authority of a military government. Historians do not mention any rebellion. The "Canadiens", today's Quebecers, although in the majority, tolerated and accepted this British military presence.

The war between Britain and France ended in 1763, when by royal proclamation, Canada was ceded for all time, if there is such a thing in this world, to Great Britain.

The proclamation of 1763 vested authority in a British governor appointed by His Gracious Majesty, the King or Queen of Great Britain. Without parliamentary institutions, Quebecers became subject to British private and public law.

In 1774, the Quebec Act entitled us to the restoration of our civil law and to certain parts of British criminal law, which have expanded over the years. This was probably the most enduring legacy of the British: the principles of British criminal law, criminal procedures, habeas corpus and trial-by-jury, which we did not have under the French regime. This is a legacy we intend to preserve in a sovereign Quebec, Mr. Speaker.

Around 1778-80, Americans who had remained loyal to the British Crown left the American republic and came to Canada. Some settled in New Brunswick, others in the eastern townships in Quebec and some Loyalists emigrated to Upper Canada, today's Ontario.

Subsequently, Loyalists in Canada decided to ask Canada, the Parliament in Westminster and the British government for the same institutions they had in the American colonies. Parliament and the British government were in a poor position to refuse their loyal subjects, who had often given up land and property to come and settle here, to refuse them these institutions.

But so as not to put the minority, which was then English-speaking, under the French speaking majority, Canada was divided in two, Upper Canada and Lower Canada, with a legislative assembly for each part that was elected by the people. This was the first time that we had a legislative assembly directly controlled by the people and answerable only to the people. What a fine step in our historical progress!

Nevertheless, at that time we did not have ministerial accountability as it had existed in Great Britain since the 1750s or thereabouts. The governor still held most of the powers and there was also the legislative council, which he appointed and which could object to measures coming from the legislative assembly.

The Address

Problems arose fairly quickly. In the 1820s, conflicts between the governor, the legislative assembly and the legislative council easily degenerated. As we sadly remember, these led to the events of 1837, the Patriots' Rebellion, when twelve of our people were hanged following a trial by a court martial composed of fifteen members, none of whom was French speaking.

This was a far cry from trial by jury. Those people were hanged under the Durham government and the special council of 1837.

• (1615)

After studying the situation, Lord Durham, as his mandate from the British government required, submitted a report saying that in order to assimilate the Canadian nation, today's Quebecers, the British government should pass a law merging the two Canadas.

Although we had some 150,000 to 200,000 more people, the Union Act of 1840 gave equal representation to both parts. Moreover, the Constitution of 1840 said that English was to be the only official language. There were no provisions regarding ministerial responsibility. We would get that in 1848, at the same time as the repeal of the constitutional provisions banning the use of French.

We now come to 1855, the year of reversal. This is a date we should never forget. That was the year that English speaking people outnumbered French speaking people for the first time. What happened then? As soon as English speaking people realized they were in a majority they asked for proportional representation. From 1855 on, and increasingly until 1867, they were asking for what was refused to the "Canadiens", today's Quebecers, in 1840. The demand was so pressing that, in 1867, the parties agreed on what I call a compromise based on a misunderstanding.

On one side was Sir John A. Macdonald, who wanted a legislative union of all provinces of British North America, with a single Parliament. On the other side, representing the Quebec way of seeing the issue, was Sir George-Étienne Cartier who wanted strong, autonomous provincial governments sovereign in their field of jurisdiction, a fact acknowledged in 1883 by the British Privy Council in its decision respecting the Hodge v. Regina case.

This compromise based on a misunderstanding resulted in a single document, then known as the British North America Act, and now as the Constitution Act of 1867.

It so happens that to reconcile two visions so diametrically opposite it became necessary to play around with sections of the Constitution so that people would be on opposite sides. It is no wonder that the courts are constantly being asked to give their interpretation of the Constitution. Indeed, the Constitution cannot reconcile black and white, cannot say yes and no in the same breath.