

Official Languages

[Translation]

Madam Speaker: It being three o'clock, the House will now proceed with the order made on October 5, 1983.

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[English]

OFFICIAL LANGUAGES

RESOLUTION ON FRENCH LANGUAGE RIGHTS IN MANITOBA

Right Hon. P. E. Trudeau (Prime Minister) moved:

Whereas a fundamental purpose of the Constitution of Canada is to protect the basic rights of all Canadians, including Aboriginal peoples, English-speaking and French-speaking minorities, religious, ethnic and other minority groups;

Whereas the Constitution contains provisions respecting the status and use of the English and French languages in Canada;

Whereas the *Manitoba Act, 1870* was enacted by the Parliament of Canada to establish the province of Manitoba and is part of the Constitution;

Whereas in 1870 Parliament provided special protection for the use of the English and French languages in Manitoba under section 23 of that Act;

Whereas the Supreme Court of Canada, on December 13, 1979, reaffirmed this constitutional protection under section 23 of the *Manitoba Act, 1870*;

Whereas the Constitution is the supreme law of Canada and is binding upon Parliament and the Legislatures of all provinces;

Whereas it is in the national interest that the language rights of the English-speaking and French-speaking minorities in Canada be respected and protected in a spirit of tolerance and civility, amity and generosity;

Whereas an agreement was reached on May 16, 1983 by the Government of Canada and the Government of Manitoba, with the participation of the Société Franco-Manitobaine, to modify the *Manitoba Act, 1870*, so that the Government and Legislative Assembly of Manitoba can fulfil effectively their constitutional obligations under section 23 of that Act;

Whereas it is in the national interest to support continued efforts by the Government and Legislative Assembly of Manitoba to fulfil effectively their constitutional obligations and protect the rights of the French-speaking minority of the province;

(1) the House endorses, on behalf of all Canadians, the essence of the agreement reached by the Government of Canada and the Government of Manitoba, with the participation of the Société Franco-Manitobaine, on May 16, 1983, to modify the *Manitoba Act, 1870*;

(2) the House invites the Government and Legislative Assembly of Manitoba to take action as expeditiously as possible in order to fulfill their constitutional obligations and protect effectively the rights of the French-speaking minority of the province.

He said: Madam Speaker, I feel truly privileged to participate in this debate. I should like to say, not without emotion, that it is perhaps the most important day of my life as a parliamentarian. For by the resolution which is before the House, we in this Chamber are called upon to do two things: first, to ensure that the Constitution will be obeyed; second, to right a wrong.

It is fundamental to our life as a free society, indeed to our existence as parliamentarians, that the Constitution be obeyed. The Constitution is the source of all authority in this land: it permits us to sit in this place and to make laws; it gives authority to the officers of the Crown to collect taxes or to ensure obedience to the criminal law; it is the source of the very authority by which the Queen reigns and holds office. If the

Constitution is not obeyed, then indeed the human contract on which this free society exists is imperilled. As Hobbes said, life indeed would then be solitary, poor, nasty, brutish and short.

This resolution is of fundamental importance because, first, it is giving our support to that principle of obeying the Constitution. Second, I have said that by this resolution we will be attempting to right a historic wrong. I think that is not only a very noble privilege and duty which falls on us but it also is an encouragement to all those in this country, no matter how weak or small or poor they be, to know that the men and women sitting in this place are dedicated to that principle of setting wrongs right.

[Translation]

What is this resolution about, Madam Speaker? It is about a law enacted by the Parliament of Canada in 1870, a law that created the province of Manitoba. This law was introduced before the Parliament of Canada by the then Prime Minister, John A. Macdonald. It gave provincial rights to a territory that was part of our Canadian territories at the time. But above all, it gave legal status to the desire of the people of Manitoba, the majority of whom were French speaking at the time, that both languages, French and English, would be entrenched in the Constitution and given equal status in the legislature, the statutes and the courts.

Madam Speaker, as we all know, twenty years later, in 1890, the Manitoba legislature passed a law making English the only official language, the result being that subsequently, unilingualism became official in Manitoba, a situation that was to last for many decades.

Although experts on constitutional law maintained that the 1890 law was probably *ultra vires* in terms of the Constitution, it was not until the seventies that a Franco-Manitoban, Mr. Georges Forest, challenged the law of 1890 before the courts. And the Supreme Court of Canada, a tribunal established by the Parliament of Canada under the powers vested in Parliament by the Canadian Constitution, declared that the 1890 law establishing unilingualism was *ultra vires* and null and void, and consequently, that the 1870 guarantee for two official languages still stood.

I admire the Supreme Court for saddling politicians with this problem, since it is its role. The Supreme Court must tell us what the Constitution says. It must not worry about the political, social or economic problems that may arise as a result of a Supreme Court judgment on a legal matter arising from the Constitution. In fact, after the judgment in December 1979, governments in this country were faced with a dilemma. Because the 1890 law was unconstitutional, this might mean that all statutes passed by Manitoba, all its policies and practices, had no legal authority. That is the question now before the Supreme Court of Canada, and it is there because Mr. Bilodeau asked the Court for a ruling on the consequences of its 1979 judgment.