

# STATEMENT DISCOURS

SECRETARY  
OF STATE  
FOR EXTERNAL  
AFFAIRS.

SECRÉTAIRE  
D'ÉTAT AUX  
AFFAIRES  
EXTÉRIEURES.



CHECK AGAINST DELIVERY

87/25

Speech by the  
Right Honourable Joe Clark,  
Secretary of State for  
External Affairs, to the  
Camrose, Alberta Policy  
Information Session

CAMROSE, ALBERTA

April 25, 1987

OTTAWA

April 29, 1987.

I want to speak about institutional reform in Canada. Another of the fundamental changes Brian Mulroney's Government has introduced has been to open up our national institutions. For too long, too much power was concentrated in too few hands in Ottawa. We've changed that.

For example, Parliament now has the power to review senior appointments. Provincial governments have been drawn directly into the bilateral and multilateral trade negotiations. First Ministers meet annually, in addition to special conferences on the constitution, aboriginal rights and trade. And these meetings are around the country, not just in Ottawa. Parliament now establishes its own inquiries; elects its own Speaker; and can force the government to respond formally to all committee recommendations. We have started the experiment of provinces naming trade representatives to Canadian embassies. There have been 547 formal Federal-Provincial meetings at ministerial level in thirty months. Deputy Ministers from outside Ottawa have been appointed to key portfolios, including Finance, Justice, Science and Technology, and Federal-Provincial relations. Women are being treated as equals in Federal appointments, including to the highest offices. Farmers get appointed to the Bank of Canada. We are changing the system to fit the country.

By any fair accounting, that is an impressive record for the first thirty months - and we are just getting started. But in the same way that our fiscal flexibility is limited by the deficits of the Liberal years, so is our ability to reform our institutions limited by another legacy of the Trudeau era - a constitutional agreement which Quebec wouldn't sign. We learned at the last aboriginal conference just how limiting that can be. An amending formula designed for ten provinces works badly when only nine are there. As a practical matter, many major reforms can't be attempted until our Constitution is complete.

The Premiers recognize that reality. That is why, in Edmonton last August, with Premier Getty in the Chair, they agreed unanimously that their top constitutional priority was to bring Quebec into the Constitution. At that same Edmonton meeting, Premier Getty and the others agreed that they would pursue other constitutional questions, including Senate reform, fisheries and property rights, after having addressed Quebec's concerns.

That Alberta meeting of Premiers also unanimously agreed that the basis of the discussion about completing the Constitution would be the five conditions which Premier Bourassa and the Liberal Party of Quebec set out in the platform on which they won the last Quebec election. Those five conditions, agreed to unanimously by the Premiers, were spelled out in the document

called "Making Our Future". They relate to, first, Quebec's distinct character; second, greater protection for Quebec under the amending formula; third, entrenchment of the Supreme Court of Canada and the requirement that at least three of the nine Justices be from the Quebec bar and that Quebec participate in their nomination; fourth, strengthening Quebec's powers in the area of immigration; and, fifth, establishing limits on the exercise of Parliament's spending power.

Those are the conditions on which Mr. Bourassa won his election. Those are the conditions which Mr. Getty and the other Premiers agreed unanimously would be the basis of this discussion.

We agree with that unanimous view of the Premiers. In the course of our own overwhelming national election victory, the Prime Minister committed Canada to opening a dialogue on Quebec's return to the Canadian Constitutional family. Understanding the complexity of the issue, he cautioned against improvised solutions, and said that eventual negotiations would not be launched until minimal conditions for success had been met.

Our first Speech from the Throne noted that the Constitution was not a matter for resolution between the Government of Canada and the Government of Quebec. All the provinces must participate in achieving a new Constitutional consensus.

When First Ministers met in Vancouver last November, they confirmed the unanimous Edmonton position taken by the Premiers. They agreed to intensify discussions, based on Quebec's five proposals. Matters moved ahead, but on March 17, 1987, the Prime Minister came to the conclusion that preliminary discussions had gone as far as possible without further consideration by First Ministers. He therefore invited the Premiers to a meeting at Meech Lake on April 30th to take stock of progress, and to consider next steps.

The Prime Minister, Senator Murray, and our Cabinet have considered carefully the approach the Federal Government should adopt to Quebec's five conditions. It might be appropriate if I give some indication of that approach. Naturally, I won't discuss the details, which are for First Ministers, but I want to indicate our principles.

First, our proposals are designed not to weaken the Federal authority, but rather to ensure that the provinces are fully involved in joint decision-making on matters of particular importance to them.

Second, while we share the unanimous view of the Premiers that the "Quebec Round" of Constitutional discussions should be limited to Quebec's conditions, we believe that, where appropriate, new arrangements agreed to for Quebec should also be available to other provinces.

Thus, if Quebec is to be involved in the selection of Supreme Court of Canada Justices from that province, other provinces should also have the opportunity of involvement when appointments are to be made from their bar. If an immigration agreement with Quebec is to be entrenched in the Constitution, the door should also be open for other provinces to negotiate and entrench eventual immigration agreements, should they so desire. If constraints are to be placed on the spending power of Parliament, those constraints should be framed in a broad Canadian context.

Quebec's distinct society should also be recognized in the context of the broader Canadian society, for its distinctiveness arises with a comparison of the other provinces, and it is Quebec's distinct society that, in turn, helps define the uniqueness of Canada. This is a matter of unfinished business from 1981, when we recognized and affirmed defining characteristics of Canada, such as aboriginal rights, multiculturalism, and the commitment to reduce regional disparities.

If the compensation provision under the amending formula were to be expanded to cover all cases of opting out, all provinces should be able to avail themselves of the new opportunity. Finally, for a narrow range of matters where opting out is not possible - changes to national institutions - we would prefer an approach to Quebec's concern that did not specifically single out one province for special mention.

The question of the amending formula to apply to national institutions is of particular interest to Albertans, because it will determine, in large measure, the nature and scope of eventual Senate reform. And it is clear that Senate reform will be at the top of the agenda after the "Quebec Round" has been completed. That was the unanimous position of the Premiers, at the meeting Mr. Getty chaired. That is our position.

The Prime Minister made that clear, explicitly and forcefully, in Parliament just sixteen days ago. He went further, and said our Government would propose Senate reform.

That was April 9th. You would be interested in the following verbatim quotations from two national institutions on that date - the House of Commons Hansard, and the CBC.

Here is what Brian Mulroney said:

"I invite my honourable friend to refer to the Edmonton declaration after the 27th Annual Premiers' Conference of August 10 to August 12, which said: "The Premiers unanimously agreed that their top constitutional priority is to embark immediately upon a Federal-Provincial process using Quebec's five proposals as a basis for discussion to bring about Quebec's full and active participation in the Canadian federation. There was a consensus among the Premiers that then they will pursue further constitutional discussions on matters raised, which includes Senate reform."

The Prime Minister then immediately said:

"If the matter of Senate reform is reached pursuant to this formula enunciated by the Premiers, the Government of Canada will have a proposal to put forward in regard to Senate reform."

And here is how the CBC reported that:

"The Prime Minister says an elected Senate is not a priority with him. Brian Mulroney says Ottawa won't discuss the issue with the provinces until Quebec has been brought into the 1982 Constitutional Agreement."

That is how the CBC exercises its mandate to encourage national unity. We exercise ours by working with the provinces on the process which they unanimously approved, and by the Prime Minister stating clearly: "We will have a proposal to put forward in regard to Senate reform".

Within this national party, we have been considering practical ways to reform the Senate for more than a decade. Members of our Caucus are examining now various options for Senate reform. The Premiers' unanimous view is that the

Quebec question is "their top constitutional priority". The Edmonton Declaration says: "Then they will pursue further constitutional discussions, on matters raised, which include Senate reform." For our part, we will be ready with a practical proposal for Senate reform - whether the CBC reports it or not.

There are plenty of proposals to examine. In 1978, British Columbia and the Canada West Foundation proposed a reform by which provinces would name provincial representatives to a sort of "House of the Provinces", in place of the Senate. Alberta supported that in 1982 and then, after legislative committee hearings, changed its position and called for direct election. In 1984, a joint committee of the House of commons and Senate recommended a system of direct election which would give smaller provinces proportionately more Senators than populous provinces. More recently, there has been considerable enthusiasm for the so-called "Triple E" proposal, which involves direct election, and would give Prince Edward Island the same representation as Albert or Ontario or Quebec. That proposal would give the Senate what it calls "effective" powers, although it is not clear what those powers would be.

That is a pretty important question. If new powers are given to the Senate, they must be taken from somewhere else. Today, the House of Commons has the power to over-rule the Senate. Do the people who want "Triple E" want to take that power away from the House of Commons? If so, who resolves a dispute between a Senate and a House of Commons with equal powers?

If the House couldn't over-rule the new Senate, would the new Senate be able to over-rule the House of Commons? If so, wouldn't that mean that Senators from the six smallest provinces would have a permanent veto over the interests of Alberta, British Columbia, Quebec, or Ontario? Could a special billion-dollar payment to grain farmers survive such a Senate? Would a Senate like that, where power had no relation to population, be likely to stop an attempt to reform a FIRA, or eliminate an NEP? If it had the power, would such a Senate forbid Michael Wilson to cut the deficit?

Consider another possibility - namely that the new power of this "effective" Senate would not come from the House of Commons, but would instead come from provincial governments. That's what happens in the United States. Their Senate has more power, because their states have less. The United States system builds regional power into the Senate, because the US

Constitution gives much more jurisdictional power to their central government. If we are to follow a US model respecting the Senate, should we also follow a US model respecting the distribution of powers? Does the "Triple E" proposal contemplate taking powers away from Don Getty and the other Premiers? Let's take an issue of particular interest to Alberta - jurisdiction over natural resources. In the US, all resources except fish are under federal jurisdiction - the exact opposite of the case in Canada. Do advocates of a "Triple E" Senate want to take resource jurisdiction away from the provinces? I would be very surprised.

Those are the kinds of questions that have to be considered very carefully as we proceed with Senate reform. Because you can't change one institution in isolation from the rest. We learned that concerning the Charter of Rights, and the respective powers of elected governments and the courts.

Institutions have to change, as society does. But we have to be sure we know what we are doing.

The Prime Minister made that point, clearly and carefully, during the election campaign, when he warned against improvised solutions regarding Quebec. His warning and his wisdom apply equally to other changes in our Constitution, including reform of the Senate. We want changes that make Canada work better. That requires both commitment and care. That is the spirit in which this Government is approaching the meeting of April 30th, to deal with what the Premiers call the "top constitutional priority", and that is the spirit in which we approach the undeniable need for Senate reform.