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THE PROVINCES AND TREATY-MAKING POWERS

The Secretary of State for External Affairs, the Honourable Paul Martin, today issued the following statement:

"The constitutional position in this country on the question of treaty-making is clear. Canada has only one international personality in the community of sovereign states. There is no doubt that only the Government of Canada has the power or authority to enter into treaties with other countries.

It is nevertheless true that under the Canadian constitution as it has been interpreted, there is a lack of harmony between treaty-making and treaty-implementing powers. This creates special problems for Canada in respect of treaties concerning subjects of provincial legislative jurisdiction. The problem is not unique. Other federal states have adopted various approaches to the task of harmonizing treaty-making and treaty-implementing powers; but there is no federal state, in the world whose constitution allows its members to make treaties freely and independently of the federal authorities. The reason for this is obvious. Independent treaty-making powers are the prerogative of sovereign states. A federal state whose members actually possess such powers would neither be a federal union nor

a state. It would be an association of sovereign powers.

The Federal Government has exclusive responsibility for the conduct of external affairs as a matter of national policy affecting all Canadians. The policy of the Federal Government in discharging this responsibility is to seek to promote the interest of the entire country and of all Canadians of the various provinces within the overall framework of our national policy.

In respect of matters of specific concern to the provinces of Canada, it is the policy of the Canadian Government, in a spirit of cooperative federalism, to do its utmost to assist the provinces in achieving the particular aspirations and goals which they wish to attain. This was done, for example, in the case of the negotiations relating to the Columbia River.

It is clear that Quebec is the custodian of special cultural values and that this unique heritage cannot be developed in isolation from the French community. The Canadian Government recognizes that it is in the interest of Canada as a whole that this should be done. The pursuit of this objective is not in question. On the contrary, the Federal Government, for its part, is prepared to do all it can to assist Quebec in this regard. It recognizes that Quebec will play a major role in the achievement of these fundamental objectives.

The Canadian Government is ready and anxious to use its powers in the foreign affairs field, within the framework of our national foreign policy, to assist Quebec and all the other provinces in furthering matters of special concern to them.

The attitude of the Federal Government has recently been illustrated by the "entente" signed by representatives of Quebec and France in the field of education in February 1965. The Quebec and federal authorities cooperated actively in a procedure which enabled the Province of Quebec, within the framework of our constitution and our national policy, to participate in international arrangements in a field of particular interest to that province.

Thus, under existing procedures, the position is that once it is determined that what a province wishes to achieve through agreements in the field of education or in other fields of provincial jurisdiction falls within the framework of Canadian foreign policy, the provinces can discuss detailed arrangements directly with the competent authorities of the country concerned. When a formal international agreement is to be concluded, however, the federal powers relating to the signature of treaties and the conduct of overall foreign policy must necessarily come into operation.

The approach of the Canadian Government to the question of Canadian representation in international organizations of a social, cultural or humanitarian character reflects the same constructive spirit. We recognize the desirability of ensuring that the Canadian representation in such organizations and conferences reflects in a fair and balanced way provincial and other interests in these subjects.

I hope that the course which would commend itself to all Canadians is the course of confidence in our ability in this country to adapt our federal institutions to present needs in a spirit of cooperation and good will so that, drawing maximum strength from our united efforts, we can achieve together our national objectives."