



MEMORANDUM

by the

*Government of the
Province of Quebec*

submitted to the

DOMINION-PROVINCIAL CONFERENCE

by

*The Honourable Maurice L. Duplessis, K.C., LL. D.,
Prime Minister*

— APRIL 25TH, 1946 —



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The representatives of the Federal Government and of the Provincial Government met in Ottawa on August 15th, 1945 in order to examine the proposals made on the same day by the Ottawa Government. The delegates conferred from August 6th to 10th, from November 26th to 30th, 1945, from January 28th to February 1st, 1946 and finally from April 25th to May 3rd, 1946 when the Conference was adjourned sine die by the Federal Government.

During the sittings of this very important Conference, the representatives of the Province on several occasions acquainted the representatives of the other governments with the opinion and the attitude of the Province of Quebec. On April 25th, 1946, the Prime Minister of the Province, the Honourable Maurice L. Duplessis, laid on the table of the Conference a memorandum drawn up in French, the translation of the official text of which is reproduced herein.



MEMORANDUM

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The Federal Government called together the Provincial Governments in the month of August, 1945 for the purpose of submitting certain proposals to them. The relationships between the Federal Government and the Provincial Governments have, in recent years, given rise to numerous problems. Certain of these involve all the provinces; others concern only one province in particular or only a few provinces but the proposals of the Federal Government relate only to certain of these problems. For the moment the Province of Quebec intends to confine its observations to the examination of the federal proposals considered as a whole. In undertaking the study of these proposals, the Government of the Province of Quebec has one object in view and that is to ensure the greatness and the prosperity of the whole country. It has, we believe, given to the Federal Government and to the governments of the other provinces, repeated proofs of its loyal and sincere collaboration.

In order justly to appreciate the real purport and scope of the proposals submitted to the provinces, it is necessary to examine them in the first place in the perspective of history and of our constitutional enactments.

BASIC PRINCIPLES OF THE 1867 COMPACT

In our political history the importance of the year 1867 cannot be overlooked. It was then that, following discussions and conferences, the two Provinces of Upper and Lower Canada, Nova Scotia and New Brunswick, gave birth to the Canadian Confederation. The terms and the conditions of this new federation are contained in an historic document known as "The Quebec Resolutions". The provinces then rejected a legislative union and decided in favour of a federal system because each province was desirous of maintaining its own particular history and traditions and wished to protect its own economic and geographic interests.

The Quebec Resolutions are undoubtedly the outcome of the agreement entered into between the four provinces which gave birth to Confederation. The Quebec Resolutions implicitly laid down that each of the provinces of Upper and Lower Canada would recover its own distinct and autonomous entity thereby once more establishing the necessity for a federation rather than for a legislative union.

Born of the willing agreement of four autonomous provinces and sanctioned to give effect to the desire expressed in the provisions of its constitution that it should be established by contract, Confederation is therefore essentially a compact. It is futile to examine whether this federal compact meets all the requirements necessary for the validity of contracts under civil law. Agreements between States are on a different plane since they belong to the domain of public law.

It is of course true that the federal agreement became an Act of the Imperial Parliament. But, to quote the saying of one of our statesmen, the Parliament at Westminster did not go beyond "giving validity to the clauses of the Canadian federal agreement".

Accordingly, the sponsor of the Bill which became the British North America Act, the Rt. Hon. C. P. Adderley, Under-Secretary of State for the Colonies, declared to the House of Commons in London :

" If again, Federation has in this case specially been a matter of most delicate treaty and compact between the Provinces... it is clearly necessary that there should be a third party ab extra to give sanction to the treaty made between them." (Hansard's Parliamentary Debates, Third Series, Vol. 185, p. 1169.)

And Lord Carnarvon, known as the legislator of the Act of 1867 and who submitted the Bill to the House of Lords, expressed himself as follows :

" THE QUEBEC RESOLUTIONS, with some light changes, form the basis of a measure that I have now the honour to submit to Parliament. To those resolutions all the British Provinces in North America were, as I have said, consenting parties, and the measure founded upon them must be accepted as a treaty of union." (Hansard's Parliamentary Debates, Third Series, Vol. 185, p. 558.)

The doctrine to the effect that Confederation is in the nature of a compact has, up to recent years, been consistently maintained by all our public men without distinction of party, of race or of religion.

It has furthermore been sanctioned by judicial authority. In 1932, speaking on behalf of the Privy Council, Lord Sankey declared that the British North America Act " embodies a compromise under which the original provinces agreed to federate ", and that " the process of interpretation as the years go on ought not to be allowed to dim or to whittle down the provisions of the original contract upon which the federation was founded ". (In re : **Regulations and Control of Aeronautics, in Canada**, 1932, A.C., p. 70).

And in 1937, commenting upon the distribution of powers between the central government and the provinces, Lord Atkins stated that :

" No one can doubt that this distribution is one of the most essential conditions, probably the most essential condition in the inter-provincial compact to which the British North America Act gives effect." (Attorney General for

Canada vs Attorney General for Ontario, 1937, A.C., p. 351.)

It is for this reason that the Government of the Province of Quebec had felt bound to submit in May, 1937 to the Rowell-Sirois Commission a declaration of principles designed to establish clearly its position. In this declaration, the Government asserted that :

" It is not from the Central Government that the powers and attributions of the provinces flow ; it is, on the contrary, from a willing agreement between the provinces that the Central Government was born.

" The contractual character of our Confederation has been so often acknowledged by statesmen and jurists that it seems unnecessary to insist any longer. The Government of this Province declares that it firmly adheres to this doctrine.

" Hence an all important consequence. Being of the nature of a contract, the Federal Compact cannot be amended nor modified, except with the consent of all the parties thereto that is to say of all the provinces. Neither the Federal Government, nor a majority of the provinces, can change or alter its provisions."

Those who, in recent years, have maintained that Confederation is not a compact, are in contradiction with political tradition and, at the same time, with the jurisprudence of the courts.

From the principle that the federal constitution is in the nature of a contract, there follows one inescapable consequence : the basic act of the Confederation must not be modified without the unanimous consent of the provinces which gave birth to it. Any amendment otherwise effected involves an encroachment upon the sanctity of contracts, which cannot but impair the harmony and the stability of Canadian inter-governmental relations.

The characteristic of our federative system is that the allocation of powers between the central government and the provincial governments is the result of concessions freely accepted by the provinces. It would, therefore, be contrary to the dictum of history to claim that the provinces derive their powers and their prerogatives from the Federal Government. It is, on the contrary, to an act freely

accepted by the provinces, that the Federal Government owes its existence.

It is clear that, being masters of their own destinies, the provinces could not have intended to work toward their own destruction but rather they were anxious to add to their strength. This point was stressed by Lord Watson, in the following explicit terms :

**" But, in so far as regards those matters which, by
" sect. 92, are specially reserved for provincial legislation,
" the legislature of each province continues to be free from
" the control of the Dominion, and as supreme as it was be-
" fore the passing of the Act." (Maritime Bank vs Receiver
General of New Brunswick, 1892, A.C., p. 437.)**

And, at an earlier date, Lord Fitzgerald had stated :

**" For provincial purposes in relation to the matters
" enumerated in sect. 92, it conferred powers not in any sense
" to be exercised by delegation from or as agents of the
" Imperial Parliament, but authority as plenary and as
" ample within the limits prescribed by sect. 92, as the Im-
" perial Parliament in the plenitude of its power possessed
" and could best owe. Within these limits of subject area, the
" local legislature is supreme, and has the same authority
" as the Imperial Parliament or the Parliament of the Domi-
" nion . . . " (Hodge vs Queen, 9 A.C., p. 117.)**

It is one of the essential prerogatives of sovereign States that they may raise by taxation, in the manner that they deem most appropriate, the sums necessary for the efficient working of the public services and the carrying out of the laws enacted by their Parliament, not only with a view to present requirements but also with a view to the future. The federal system which involves an allocation of public powers among the several federated States must also involve a corresponding apportionment of the sources of revenue. What use could provinces make of the most extensive legislative powers if, on the other hand, they were prevented from raising the funds necessary for the exercise of those powers? A central government which appropriated to itself all the sources of taxation would, in fact, reduce the provinces to legislative impotence. It is clear that a province collecting no revenue other than the subsidies granted to it by the central State would cease to be a sovereign State and would become a sort of subordi-

nate governmental body under the tutelage of the authority from which it drew its means of subsistence. Under the British North America Act the provinces have the exclusive power of legislating in extremely important matters, particularly education, municipal institutions, public works within the province, hospitals, asylums and charitable institutions, the administration of justice and, more generally, all matters concerning property and civil law. All these matters are of fundamental importance and progressive legislation in these various spheres involves considerable expenses and evidently implies, for the provinces, the power to raise the sums necessary for those purposes.

To meet such expenses, the provinces have in the first place reserved for their own use the natural resources such as public lands, forests, mines and minerals, hydraulic and hydro-electric powers. In addition, they assigned to themselves, as a source of revenue, direct taxation. Amongst the matters that are exclusively reserved to the provinces under section 92 of the British North America Act we thus find "Direct Taxation within the Province". It is true that section 91 of the same Act recognizes the right of the Federal Parliament to raise money "by any Mode or System of Taxation". — These two texts are not contradictory; they show, however, that the provinces on which the text confers the exclusive right of direct taxation, must have a priority right in this sphere.

Such was, moreover, the interpretation given to these sections by the parties to the federative compact. Until the first World War, that is to say for fifty years, the Federal Government, generally speaking, refrained from resorting to direct taxation to raise the sums which it required. And, when, in 1917, the federal income tax was established, the Minister of Finance deemed it advisable to make it clear that this was only a temporary enactment in the nature of a war measure.

Thus, the Minister of Finance, Sir Thomas White, stated in the House of Commons during the 1917 Session :

**" The income tax is peculiarly within the jurisdiction of
" the Province and is a suitable tax for the purpose of the**

"Province and the municipalities." (Debates of the House of Commons, Canada, Session of 1917, Vol. II, page 1441.)

Further, in the pamphlet which he published in 1921 entitled **The Story of Canada's War Finance**, Sir Thomas White wrote :

"My view was that the income tax should, if possible, be left to Provinces for their own purposes and those of municipal governments."

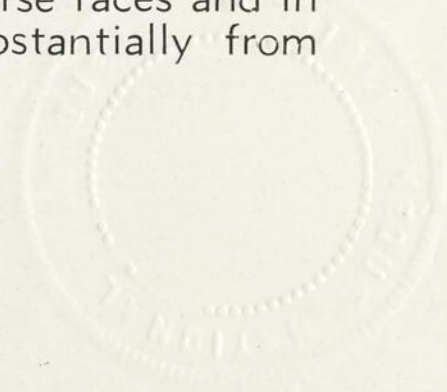
It may be pointed out that this interpretation applies both to the taxation of personal and corporation incomes. It was not until the second World War that the Federal Government assumed the right to tax successions and to invade other fields of taxation until then reserved to the provinces.

It is generally conceded that the best rule of interpretation applicable to agreements is the conduct of the subscribing parties.

Such are the basic principles which, in the opinion of the Government of the Province of Quebec, have been sanctioned by the British North America Act, by political tradition and by history.

The Government of the Province of Quebec is therefore justified in holding that the federative compact has created an association of states, autonomous and sovereign in their respective spheres. It is, moreover, firmly convinced that the maintenance of the full autonomy of the provinces constitutes the best safeguard for the minorities, as well as being an essential condition of national unity and progress in Canada.

The Quebec Resolutions were the outcome of protracted and arduous discussions during which the advantages and drawbacks of legislative union were debated. They were drawn up by statesmen belonging to different political parties and to different races and religions. They were adopted because they were deemed to be best suited to the progress of a country peopled by diverse races and in which the economic interests differ substantially from one region to another.



While the accumulation of powers in the hands of a small group of men leads to autocracy, the distribution of powers is one of the best safeguards of democracy. Is democracy itself not the clearest example of decentralization?

It is in totalitarian countries that centralization prevails. But the terrible experience of the war has shown what is the ultimate outcome of totalitarianism. To destroy centralization was one of the principal aims of the last war; to establish it in our country, counter to a contract which willed precisely the contrary, would, to say the least, be illogical.

Autonomy is desirable for all provinces and particularly for the Province of Quebec which represents a minority in the Canadian State. Moreover, each province, if considered individually, constitutes a minority in the federal whole. Centralization is a condition **sine qua non** of state socialism, of bolchevism, of fascism and of nazism; this consideration is an additional reason for the irrevocable determination of the Province of Quebec to uphold provincial autonomy.

Are not the United States of America a Confederation within which each of the forty-eight States is autonomous and sovereign? The marvellous economic development, the strength and prosperity of the United States are universally recognized. It is obvious therefore that the existence of nine provincial governments could not be prejudicial to the prosperity of our country; far from it.

The basic principles of the 1867 compact have inspired and will always inspire the policies of the present Government of the Province of Quebec. The Province of Quebec will abide by every clause of the compact, it will loyally discharge all the resulting obligations but it is determined jealously to defend all the prerogatives the legitimate possession of which was sanctioned by the Canadian constitution. It is for this reason that it proposes to preserve its entire autonomy and its unrestricted sovereignty in the matters that fall within the provincial jurisdiction, and, in order to meet its present and future obligations and to exercise its rights and prerogatives, it is essential that

it should preserve its financial autonomy. The Province of Quebec demands not only that its rights should be respected but that the rights of the other provinces should be completely safeguarded. It sincerely hopes that the other provinces, inspired by the same spirit, will follow the same course. The Province of Quebec stands firmly convinced that the federative system is the only system capable of maintaining unity in this country. That system is both a guarantee for the minorities and a guarantee for the protection of the economic interests of each region of this country.

II

THE REAL SCOPE OF THE FEDERAL PROPOSALS

The proposals submitted by the Federal Government may be grouped under three different headings :

1. — Financial proposals ;
2. — Social security proposals ;
3. — Public investment policy proposals.

1. — Financial Proposals

The financial proposals are the only ones which do not give rise to any difficulty of interpretation. The Federal Government seeks to obtain from the provinces the exclusive monopoly of the principal direct taxes ; it further proposes to be relieved from its present financial obligations towards the provinces. In return, the Federal Government promises to the provinces an annual subsidy based upon national production.

The central government asks that the provinces should grant it an exclusive monopoly in the sphere of personal income taxes, of succession duties and of taxes on the income and capital of corporations. These three direct taxes are the most important in the whole provincial fiscal system and beyond all question the British North America Act grants the provinces an incontestable right of priority over these sources of revenue. To measure their real importance, it may be pointed out that the Province of Quebec, for instance, paid to the Federal Treasury during the latter years of the war, merely out of the income taxes levied on individuals and corporations, a sum of approximately \$450,000,000 per annum, that is to say an amount five times larger than the aggregate revenues of the Government of the Province during the same period.

These sources of taxation, by their very nature, fall within the provincial jurisdiction ; the Province requires these revenues for its own purposes and possesses thereon a constitutional priority.

a) Succession Duties

Successions are an institution of civil law. The rules governing successions are normally designed to ensure the transmission of the estate within the family and are based on the legal principles that govern the organization of property, the distinction of assets, the relations between consorts, as also the relations between consorts and their issue. Such problems fall within the scope of civil law, and the Province of Quebec possesses a legal system of its own, which we are entitled to preserve. Taxation cannot, by a federal Act, be fairly assessed over dissimilar systems of inheritance. Consequently the federal legislation attempted, for fiscal purposes, to establish uniformity in the sphere of successions, by giving to successions a definition applicable in all the provinces. But the terms of this definition, foreign to the legal terminology of our Province, are unintelligible to civil law jurists and the Government of Quebec considers that the federal legislation concerning succession duties enacted for the first time in 1941, almost 75 years after the Canadian Constitution, is contrary to section 92 of our Constitution. On this subject we may refer to the opinion of the lamented Judge P. B. Mignault, in **The Canadian Bar Review**, December, 1941, page 719.

The Province of Quebec is ready to co-operate with the other provinces, as it has done with the Province of Ontario, to simplify the collection of this tax and to avoid double taxation when the assets of the same estate are situated in several provinces.

b) Taxes on the capital and the income of corporations

Foremost among the corporations subject to this tax are those which are engaged in the development of our natural resources. There is, in this case, in addition to the legal argument under which these taxes belong to the provinces, a further argument based upon strict justice and equity. These corporations are developing our natural resources : forests, mines, fisheries, hydraulic powers, etc. The provinces are the absolute owners of their natural resources and it is their duty to preserve them and to ensure

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their development. It is only fair then that the revenue derived from these corporations should enable the provincial governments to meet these obligations. Further, since these natural resources belong to the provincial community as a whole, it reasonably follows that the revenues from these riches should be made available to the provincial community to improve its educational and social services.

In this sphere, as in that of succession duties, it is possible to simplify methods of collection and to reduce the costs involved by means of agreements between the provinces and by the setting up of a single collecting agency.

c) Personal income tax

The personal income tax is on a different plane. It nevertheless constitutes nowadays a direct tax of considerable importance. On this particular direct tax as on the others, the provinces have a right of priority over the Federal Government. Moreover, from an historical point of view, recourse on the part of provinces to this source of revenue antedates that of the Federal Government. In these circumstances, it is surprising to note that the Federal Income Tax Act should contain provisions that disregard the undisputable right of the provinces to levy taxes. A reference to section 16, chapter 34, of the Statutes of Canada, 4 Geo. VI, paragraph (o), will show that the Minister of National Revenue has arrogated to himself the right to disallow, for federal income tax purposes, certain provincial and municipal taxes. This 1940 amendment reads as follows :

" (o) Any tax, license fee or other levy, or the amount
" represented by the increase in any tax, license fee or levy
" imposed, exacted or increased after the twenty-fourth day
" of June, 1940, by virtue of the authority contained in any
" provincial statute or order-in-council, save such amount
" as the Minister in his discretion may allow."

It is inconceivable that while making use of sources of revenue belonging to the provinces, the Federal Government should at the same time disregard the right of the provinces to levy other taxes. Accordingly, the Province

of Quebec requests that this provision of the Income Tax Act be repealed, as well as all similar federal statutes.

Should the federal proposals be accepted by the provinces, the three sources of revenue hereinabove mentioned would become the exclusive property of the central government.

In the second place, the federal financial proposals plainly aim at freeing the central government from the obligation of paying to the provinces the grants provided under the British North America Act and the arrears of the corporation taxes that should be paid to the provinces in virtue of the 1942 agreement. Thus, on page 49 of the text of the **Proposals of the Government of Canada**, it is stated that :

**" The Dominion Government therefore proposes, in lieu
" of present statutory subsidies and payments under the war-
" time tax agreements, to pay each provincial government
" the sum of \$12. per capita."**

This is an instance of a tendency on the part of the Federal Government to disregard its obligations, a tendency liable to destroy the harmony and the confidence that should exist between the different parts of the country and clearly to show the evident danger of replacing the provincial powers of taxation by federal grants.

The Government of the Province of Quebec is opposed to the suppression of the grants for which provision is made in the British North America Act. This system has not always given satisfaction to the provinces and has certainly not been applied in accordance with the spirit which inspired its adoption but we believe that a principle of paramount importance is involved in this matter. At the Quebec Conference, the provinces which gave birth to Confederation agreed to surrender to the central government the then principal sources of provincial revenue, namely customs and excise duties. These grants bring back to mind, as it were, the great sacrifices made by the four original provinces. It is not only fitting that these sacrifices should not be forgotten but also that they should not be made more onerous to the advantage of the beneficiary and at the expense of the giver. By way of compensation

for the transfer by the four original provinces of the customs and excise duties, the British North America Act provided a grant that was normally to be based both on the increase in the federal revenues and the increase in the provincial needs. These grants, according to the very terms of the British North America Act, were paid to the provinces "for the Support of their Governments and Legislatures". Logically the expenses occasioned by "civil government and legislation for local purposes" were to follow a rising curve, parallel to the additional needs of the Province.

In 1868 the Federal Government collected customs and excise duties amounting to \$11,700,000. In 1939, it collected from these sources \$130,000,000 or almost twelve times as much. During the same period, the total grants to the Province of Quebec, which amounted to \$913,000 in 1868, had reached \$2,534,000 in 1939 only a fourfold rise whereas the revenues of the Federal Government had increased twelvefold. In 1867, this grant represented 59% of the budget of this Province, whereas in 1939, it represented only 3.5%.

Even if these grants have not proved satisfactory to the provinces, the Government of the Province of Quebec considers that their retention is extremely important and that the only way for the Federal Government to give satisfaction to the provinces is not to suppress them but to adjust them to present needs.

In the third place, the present financial proposals tend to free the Federal Government from the obligations that it assumed in 1942. The provinces, in 1942, entered into an agreement with the Federal Government whereby they ceded to the latter, for the duration of the war, their right to the taxation of personal income and corporation income and capital. The Federal Government at that time formally undertook to make it possible for the provinces, at the end of hostilities, again to use these sources of revenue. The agreement stipulated that :

**" The Dominion shall have the sole right to levy taxes
" on personal and corporation incomes of the calendar year
" ending on the thirty-first day of December nearest to the
" date of the termination of this agreement, and with res-**

**“ pect to personal and corporation incomes in the following
“ calendar year undertakes to reduce its rates of taxes by such
“ an amount as will enable the Province again to use the
“ income tax and corporation tax fields, and in particular the
“ Dominion undertakes to reduce its rate of tax on corporation
“ incomes by at least ten per cent of such incomes.”**

This last condition was inserted at the request of British Columbia where the tax on corporation incomes amounted in 1942 to 10%, as compared with 5% in the Province of Quebec. Furthermore, the Minister of Finance, the Honourable Mr. Ilsley, declared in 1941 :

**“ It is proposed, as a temporary expedient for the dur-
“ ation of the war only, to ask the provinces to vacate these
“ two tax fields.”**

The Minister of Finance was referring to the taxation of incomes of individuals and corporations. He acknowledged also, at the same time, that the provinces were entitled to these sources of revenue.

In addition, by an express stipulation, the Federal Government had been authorized to deduct from the annual grants payable to the provinces, all arrears, overdue at the time of the agreement, which would be collected by the provinces subsequently to 1942 on the taxes that they had thus ceded and also certain other amounts mentioned in the agreement.

The Province of Quebec has collected, to date, a sum of \$21,711,375.49⁽¹⁾ and the Federal Government, which deducted \$20,586,074.56⁽¹⁾ from the subsidies it had to pay to the Province, is indebted for this latter amount at the termination of the agreement. By an Order-in-Council dated December 21st, 1945, the hostilities were, for the purposes of the agreement, deemed to have ceased on September 2nd of the same year, and, consequently, the agreement will terminate on March 31st, 1947. Now, as the result of the present proposals and on the basis of statements made by the representatives of the Federal Government during this Conference, if the Province of Quebec were to accept the federal proposals, it would lose this very substantial sum of \$20,586,074.56⁽¹⁾, which is due to it under the 1942 agreement.

(1) As at March 31st, 1946.

Furthermore, the Government of the Province of Quebec maintains that the 1942 agreement was already prejudicial to the interests of the Province, since it resulted in placing a "ceiling" on the revenues of the provincial governments. In addition it had the effect of surrendering to the Federal Government the powers of taxation in their entirety in return for only partial compensation based on the partial exercise of the rights of the Province by the Government of the Province. Thus, at the time of the 1942 agreement, the Province of Quebec was collecting a tax of 5% which might have been a tax of 15, 20, 25 per cent or more. As a matter of fact, the Federal Government has levied a one hundred per cent tax on the profits of corporations.

It is probably not desirable that this example should be followed and when, in 1942, the Province of Quebec surrendered its rights of taxation, it surrendered to Ottawa 100% if its rights, to receive in return a compensation of only 5 per cent. Under the 1942 agreement, British Columbia, because it levied a tax of 10 per cent, as indeed it was entitled to do, received a compensation of 10 per cent, while the other provinces including Quebec received a compensation of only 5 per cent because that was the amount of their tax.

The Government of the Province of Quebec moreover regrets to note that the Federal Government appears to disregard one of the obligations it assumed under the 1942 agreement, namely, the payment of the costs of collection due to the Province of Quebec. Indeed, section 12 of the agreement reads as follows :

**" The Province shall be entitled to retain out of taxes
" imposed by the enactments enumerated in Appendix A and
" collected after March 31, 1942, an amount equivalent to
" ten per cent thereof and any amount so retained by the
" Province shall be excluded when computing the amount to
" be deducted from the payments by the Dominion under the
" provisions of section eleven : Provided, however, that the
" provisions of this section shall not apply to taxes collected
" by the Dominion as agent for the Province."**

The Federal Government promised to deduct in favour of the Provincial Government an amount equal to 10 per cent of the arrears of corporation taxes by way of compen-

sation for the costs of collection. The failure by the Federal Government to recognize this obligation, would represent for the Province a loss of about \$261,000.00.

The Federal authorities did not fail, however, to emphasize that this surrender of the principal sources of revenue was only temporary in character. By the proposals it has submitted, the central government brushes aside its solemn undertaking to pay the provincial grants, as well as the 1942 agreement. It will be agreed that the discarding of these two agreements is not calculated to inspire that confidence which should always flow from Canadian inter-governmental agreements and which is one of the essential bases of Canadian unity as it should be understood.

The Federal Government suggested an agreement for three years and the very terms of its proposals and of its plans are obviously of a permanent nature. We do not question the good faith of the federal authorities but, with the best will in the world, we cannot see the logic of their proposals.

In compensation for these sacrifices, or, to put it differently, in exchange for the surrender by the provinces of their fiscal autonomy, the Federal Government proposes a system of annual subsidies based on national production.

For the fiscal year 1945-46, the Federal subsidy, calculated on a national production of \$10,730,000,000 would amount, for the Province of Quebec, to approximately \$51,850,000. If the federal proposals were accepted, that is to say, taking into consideration the obligations which the Federal Government's proposals impose on the provinces, the budgetary deficit of Quebec for the year 1945-46 would be about \$45,400,000. If the national production was reduced to the point where the Federal Government was obliged to pay only the minimum subsidy, namely, \$40,000.00, the provincial deficit would then be increased to \$57,200,000. These figures make no allowance for the possibility of an unemployment crisis. In other words, under the system of subsidies proposed by the Federal Government, the provincial budgetary deficits could not fail to increase, whereas, under the régime of fiscal autonomy, improvement in business conditions would enable the Province to balance its budget.

Furthermore, the method suggested by the Federal Government for determining this subsidy is very questionable. The basic figures would be established without any control on the part of the provinces and they would reflect arbitrary data. The Government of the Province of Quebec does not wish to question the good faith of the federal officers who made an estimate of the national production. It is very difficult to establish by exact figures the production of a country such as Canada. Thus it is shown on page 4 of the document distributed to the provinces entitled **National Accounts Income and Expenditure 1938-44** that, for 1944, the margin of error in the determination of the value of **Gross National Product** is about \$265,000,000. Owing to this margin of error, the figures furnished by the Federal Government could hardly serve as the basis for a subsidy. Many of the methods used are extremely questionable and the Government of the Province of Quebec is therefore of opinion that these data could not be used to establish the basis for a subsidy. The only acceptable basis would be the population figures as fixed by each decennial census or, at the present moment, the figures of the 1941 census. The Province of Quebec believes that, in order to avoid causes of conflict between the governments, the basic figures should be as little open to question as possible. Indeed, the needs of the governments are in direct proportion to the population itself.

Furthermore, acceptance of the Federal proposals would not free the Province of Quebec from its obligation of ensuring the development of its natural resources and of its highway network, of protecting public health and of placing increasing emphasis upon the improvement of its educational system.

In conclusion, the financial proposals of the Federal Government tend to replace the system of the fiscal autonomy of the provinces in the field of taxation by a system of subsidies that would make it possible for the Federal Government to exercise financial tutelage over the provinces. Such a system is incompatible with their sovereignty. Moreover, these proposals exclude the provinces from the most important fields of direct taxation, and, to the same extent, paralyze the exercise of the powers assigned

to them by the Constitution. Let us imagine, for example, the extreme case of a central government that collected from the citizens of a province every possible tax, direct and indirect, so as to leave the provincial government without any resources for its own administration. Is it not certain that provincial autonomy would then become a word empty of meaning? Nor does the same process cease to be an encroachment upon the prerogatives of a province if it is intended to deprive it of its most important sources of revenue and leave to it only the least important and the most arbitrary ones.

Finally, the Government of the Province of Quebec considers that it would be dangerous to set precedents that would enable the Federal Government to free itself from obligations it assumed in 1867 and in 1942. A Government unmindful of its obligations might invoke these precedents to free itself from the payment of the new subsidy now proposed to the provinces.

2. — Social security proposals

The federal proposals respecting social security are obscure. They would, however, certainly involve very profound changes in our social and family institutions since they contemplate that social legislation and a good portion of labour legislation, both of which fall within the exclusive competence of the provinces, should be transferred to the federal jurisdiction. In this respect the federal proposals relate concurrently to the spheres of property, of civil law, of education and of the relations between capital and labour, all of which are domains reserved to the provinces under section 92 of the British North America Act.

The Government of the Province of Quebec has concerned itself, and will continue to concern itself, with the problem of health insurance. It believes, however, that the plan submitted by the Federal authorities is, by common consent, imperfectly worked out, that it cannot be carried out in its present form and that further it embodies principles that are incompatible with the autonomy of the provinces. Let us mention, for example, the aspects of health insurance which fall within the exclusive jurisdic-

tion of the provinces : the establishment, maintenance and direction of hospitals, asylums and charitable institutions ; education at all levels including university studies ; the regulation of the professions including the conditions of admission to the practice of medicine and the relations between medical practitioners and patients. Health insurance is intimately linked with all these questions and if legislation of this nature was entirely assigned to the central government, federal interference would inevitably follow in all these spheres which must be preserved from federal encroachment.

Furthermore, the organization by the Federal Government of a health insurance plan would frequently involve overlapping with the provincial services. The Province of Quebec in particular already maintains a Department of Public Health ; it possesses health units that cover the whole Province ; it is building new hospitals and is enlarging the existing ones and it has been instrumental in organizing, upon the most modern lines, a School of Hygiene which is affiliated to the University of Montreal. To direct and administer these health services, it employs a trained and experienced staff. If the Federal Government undertook to place on the statute book a health insurance act, it would have to train a new staff which would overlap with the provincial personnel with consequential duplication of expenditure : this new staff being further removed from the centre of its operations, would necessarily give a less efficient service.

Nor must it be forgotten that, whether social services are organized by the federal or provincial governments, the resultant cost will in the last analysis always be borne by the same tax-payers. The Federal Government, in the same manner as the Provincial Governments, will have to increase the yield of its taxes if it desires to ensure the improvement of its administrative services. And, in the case of health insurance, the Federal Minister of Health and Welfare declared, during the discussions between the federal government and the provincial governments, that the Government would defray part of the necessary expenses, by levying an additional tax of 5% on the income of all tax-payers without exception. Such a measure, be-

sides increasing the percentage of national revenue absorbed by federal taxation, would still more restrict the financial possibilities of the Province of Quebec.

The better social legislation is adapted to the needs and cultural aspirations of the population to whom it is to be applied, the more beneficial it will prove. In such a case local interest is the basis on which general interest is founded ; since they are in closer contact with the citizens, the provincial legislatures can better than the Federal Government determine the type of legislation that should be adopted. In this field, the best system is indisputably that of a co-operation, respectful of the provincial prerogatives, between the central government and the provincial governments. That is the system which was adopted for old age pensions and for pensions to the blind. It is, moreover, the system recommended in the proposals under consideration for old age pensions from 65 to 70 years.

In the field of social legislation, the federative system probably offers advantages that are not found in countries which have a unitary form of government. Indeed, the existence side by side of several governments, all of them autonomous within their respective spheres, affords points of comparison and thus fosters a healthy spirit of competition that serves the best interests of the citizens.

Finally, the Government of the Province of Quebec considers somewhat anomalous the contributory system demanded by the Federal Government, whether for instance in the realm of social legislation or in the sphere of public works. On the one hand, the Federal Government asks the provinces for an exclusive monopoly over the principal sources of revenue and, on the other hand, it demands that the provinces should make a heavy contribution towards the cost of carrying out of several of its projects. This contribution varies widely and, in the case of public works for example, the Federal Government offers to pay 20 per cent of the cost of the works, leaving 80 per cent to be shouldered by the provinces and the municipalities. The disparity between these respective contributions becomes the more striking when it is considered that the

Federal Government at present receives in taxes from 30 to 33 per cent of the national revenue, while all the provinces together receive only 5 per cent.

3. — Federal proposals concerning public investment policy

The federal proposals attach a very great importance to public investment policy. The problem is extremely vast and the federal proposals on this subject appear to relate to matters that fall within the provincial jurisdiction. We shall limit ourselves to emphasizing that the Federal Government proposes to take complete and exclusive charge, **inter alia**, " of general and basic research on resource development, conservation and protection problems and methods, research requiring large diversified staff and highly specialized technical personnel ".

The following is part of the enumeration contained in **The Proposals of the Federal Government** on this subject (page 24) :

" (ii) **mineral and forest resources, including research on one dressing, metallurgy, fuels, special problems of mineral extraction and silviculture and utilization of forest products** ", etc.

The Government of the Province of Quebec believes that, since these questions fall within provincial competence, the acceptance of the federal proposals would involve overlapping and, in consequence, an unjustifiable increase in the cost of the public administration. Hitherto, moreover, the Government of the Province of Quebec has put into force numerous measures to ensure the protection of its natural resources and it is convinced that a better and fairer apportionment of taxation would facilitate and improve its means of action in this sphere.

In addition, the federal proposals would involve an indirect and dangerous seizure by the central power of the provincial natural resources. These natural resources are essential to the very existence of the provinces. They constitute an inheritance that they must jealously preserve to

ensure both their economic development and their survival. The rights of ownership of the provinces in this sphere are so extensive that even the taxes and the debts of the Federal Government can in no way affect them. The natural resources of a province are endowed so to speak with extraterritoriality in favour of the province and federal intrusion into this vitally important sphere is neither desired nor desirable and would open the door to encroachments that might prove disastrous for the province and its rights.

The offers of the Federal Government with regard to unemployment do not take into consideration the considerable financial responsibilities of the central power in this respect and they would impose on the provinces a very heavy financial burden at the very moment when, in pursuance of the federal proposals, the provinces would be deprived of their principal sources of revenue..

CONCLUSION

The federal authorities declare that the acceptance of their proposals would have the effect of safeguarding the autonomy of the provinces, of applying a progressive social policy, of satisfying the needs of the country on the one hand, and those of the provinces on the other, whilst reducing public taxation.

It is very difficult to understand how it could be possible to increase the revenues of the provinces as well as those of the government at Ottawa and at the same time to reduce taxation. Such a theory is evidently illogical.

Provincial autonomy cannot be safeguarded by substituting a federal subsidy for the financial independence of the provinces.

The sovereignty and the autonomy of the provinces cannot be reconciled with any form of federal tutelage. The Province of Quebec, in particular, has long since come of age. It is easy to see that tutelage or guardianship is incompatible with the rights, prerogatives and liberties that are the inheritance of the Province and that are assigned to it by the Canadian constitution.

The exclusive rights of the provinces in matter of social legislation, education and civil law, etc., must be preserved and protected in their entirety, if Confederation is to survive. The federal proposals as they were drawn up and explained by the federal authorities, seriously and directly encroach upon the inalienable rights of all the provinces.

Contrary to the spirit of the federative compact, the federal proposals lead to centralization and they tend to establish and develop a bureaucracy which is not suited and never can be suited for a democracy, or a country that is governed by parliamentary institutions.

A distinguished statesman from the United States, Mr. Hatton W. Summers of Texas, who was Chairman of the important Judicial Committee of the House of Representatives at Washington, wrote a few months ago as follows :
" By making the units of state government financially de-

pendent on the Federal Government, that government is acquiring the power to control the units of state government. When this is fully consummated, the sovereignty of the state governments will be liquidated . . .

"In weakening the states we weaken the whole fabric of free government. The inescapable price of free government is that we exercise it. The most destructive force in the world is non-use. If we do not use powers of self-government in the states we will awake one day to find that self-government has passed irrevocably out of our hands.

Government is exercised best in the local community. There the problems are perceived with greater clarity because they are close to the people and on a scale within their grasp. The self-reliance of the individual, town and state is being destroyed as they are being relieved of the necessity of governing themselves. When people stop thinking for themselves there is always someone willing to step forward and do their thinking for them " . . .

" Nature has not endowed any group of human beings with the sweep and grasp of intelligence necessary to handle the multitude of federal and local problems dumped upon Washington." . . .

" The states must resume the status of responsible sovereign agencies of general government or democracy cannot live in America." (This article entitled "Don't blame the Bureaucrat " was published in the Reader's Digest, of September 1943.)

The principles set forth in this declaration are perfectly applicable to the Canadian federative system.

The Province of Quebec is in favour of a sound social legislation which is a subject-matter exclusively reserved to the provinces.

True social security must afford the elements of permanence and stability which can only originate from the respect for the Constitution and the rights of every citizen, and particularly of tax-payers. The Canadian constitution is the outcome of a healthy spirit of co-operation among the provinces ; this co-operation should continue for the greater good of the country. The proposals of the Federal

Government appear to the contrary to this spirit of co-operation.

It is the opinion of the Government of the Province of Quebec that the country's needs are threefold : the clarification and precise delimitation of the taxing powers of the Federal and Provincial Governments in accordance with the spirit and the letter of the Canadian constitution, that is to say, keeping in mind the past, the present and the future.

Secondly, the simplification of public taxation in order to lessen its cost and facilitate its collection.

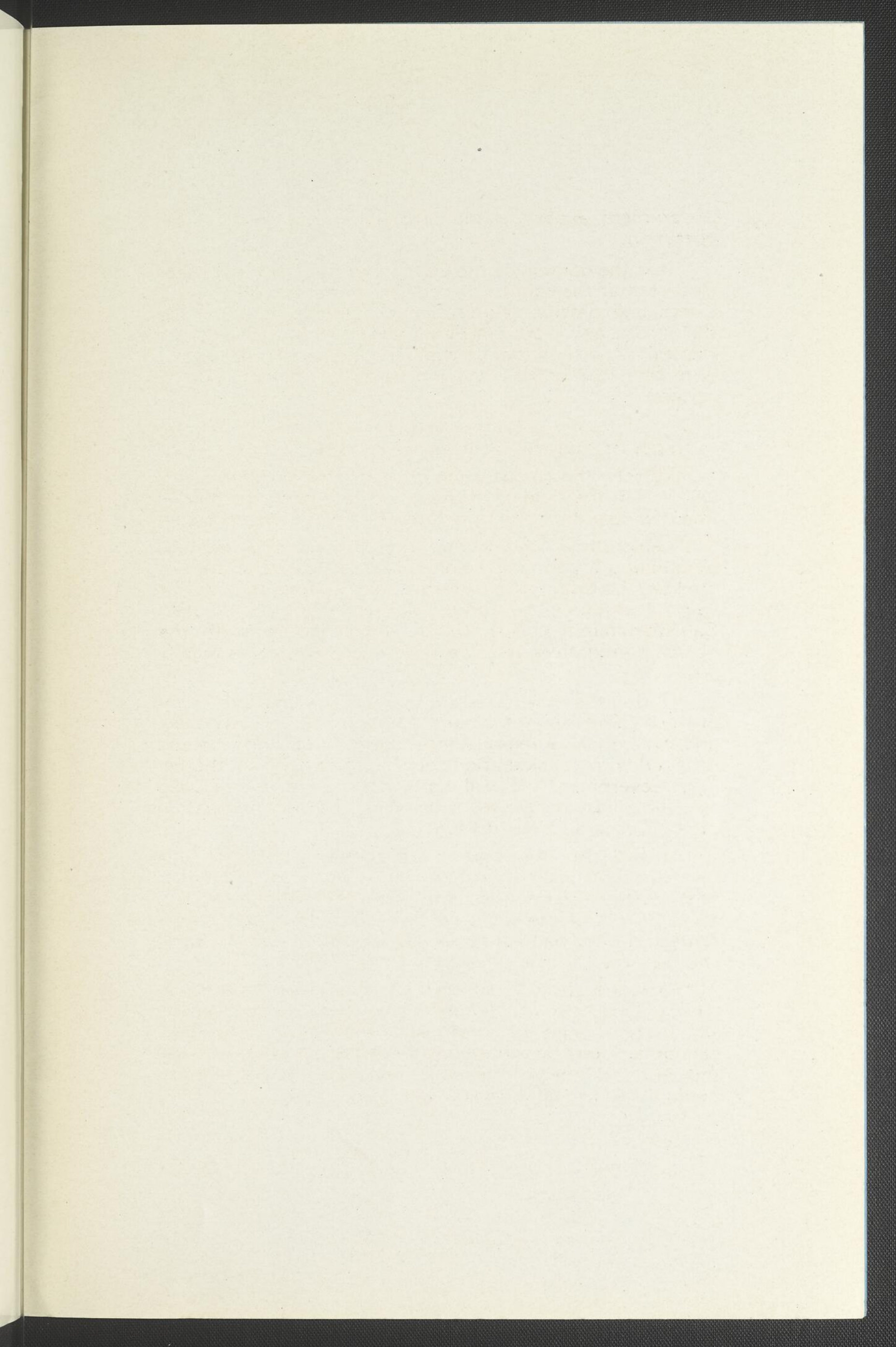
Thirdly, the co-operation of all powers to achieve moderation in the field of taxation and to lighten the burden imposed upon that eternally forgotten man : the tax-payer.

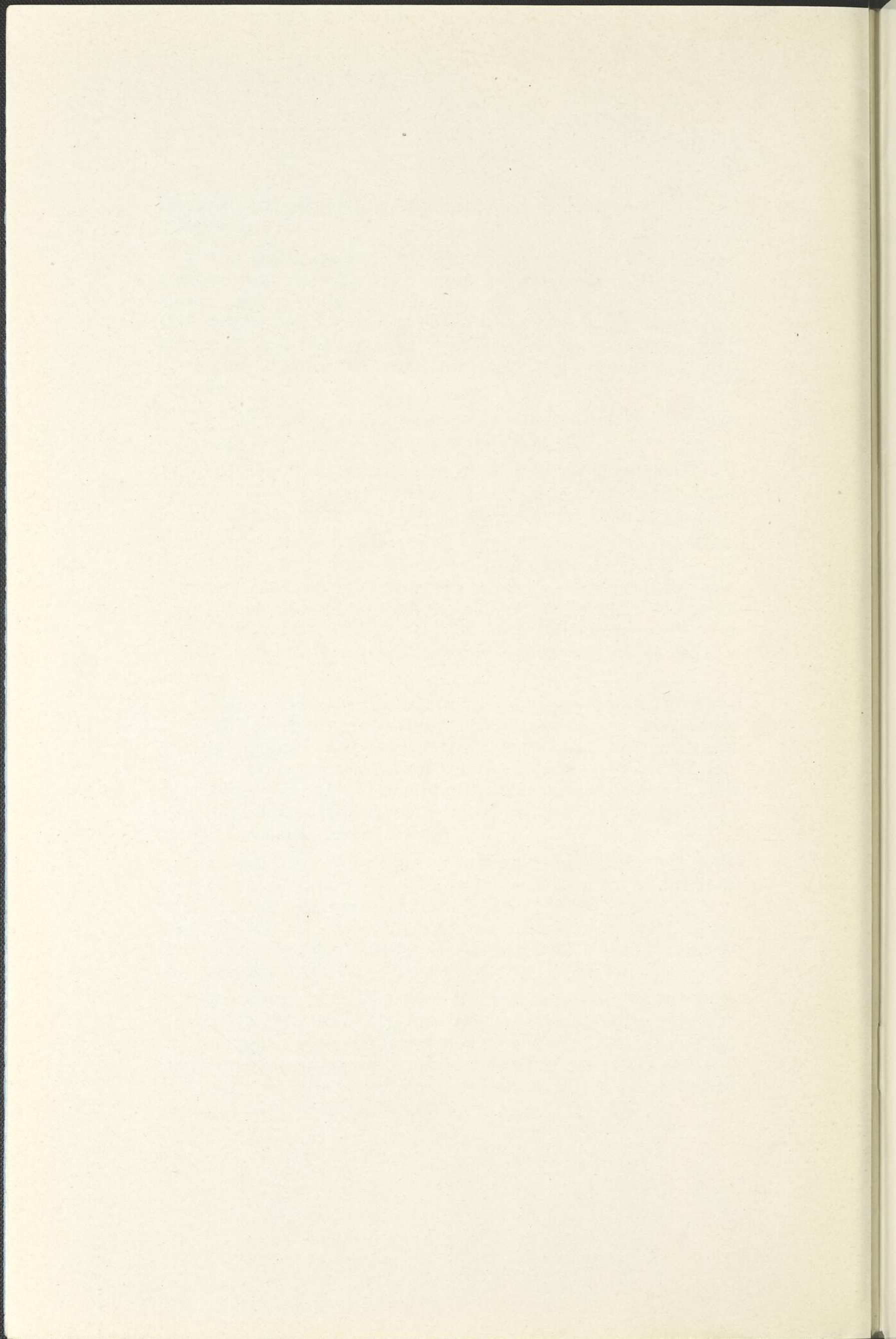
These three fundamental aims can easily be realized by creating a permanent committee composed of the accredited representatives of the ten Governments of the country, studying and working as true brothers in the great Canadian family, respectful of and concerned with the rights, prerogatives and liberties of each one of its members.

During the time necessary for the study and settlement of these Canadian problems, a temporary, but precise, clear and categorical agreement, the duration of which should be fixed with consideration for the needs both of the Federal Government and of the provinces, could be concluded as a temporary measure but based on the very foundation of the Canadian Constitution.

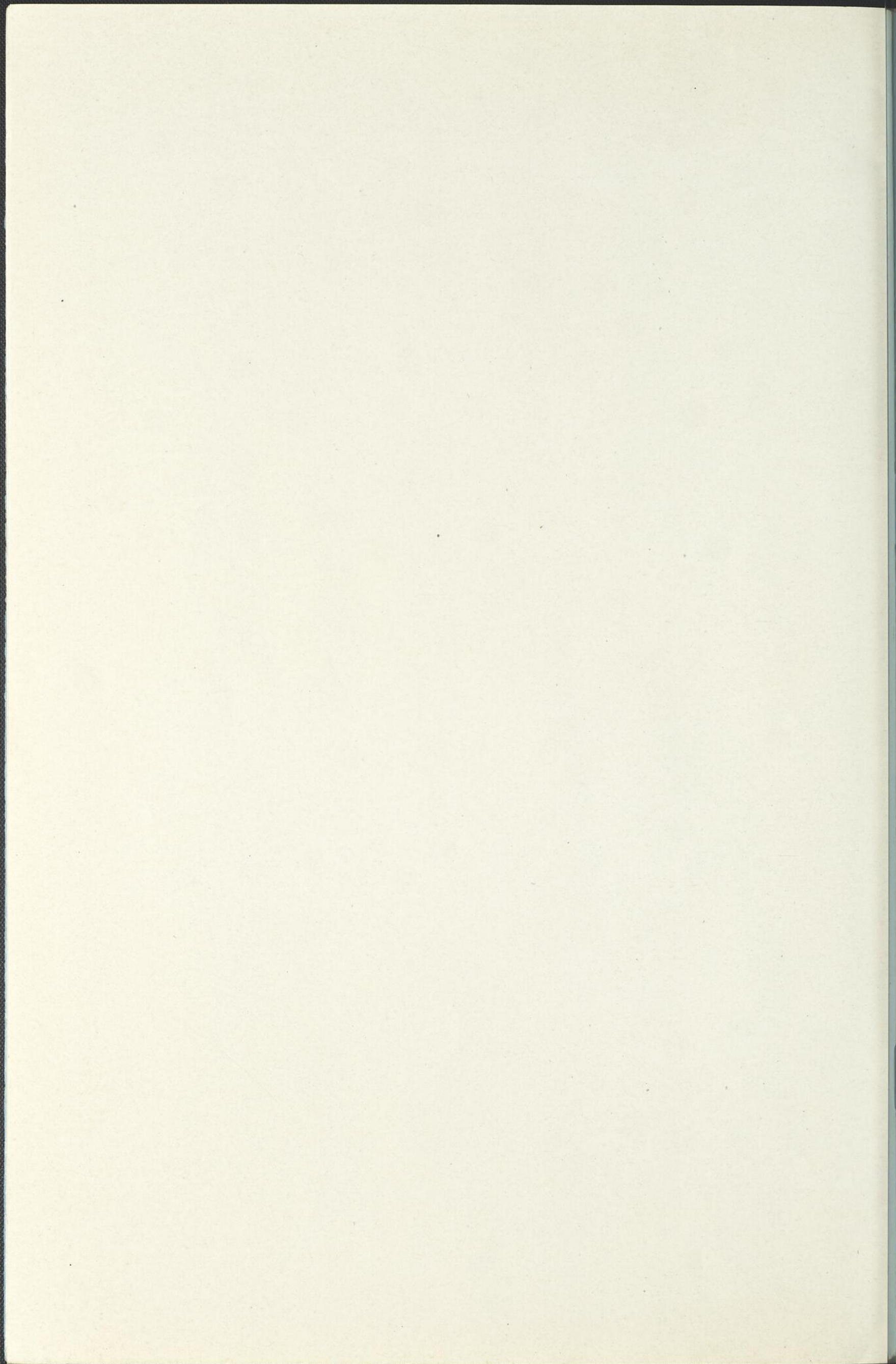
In brief, in return for a fair compensation, not only material but constitutional as well, it would be possible to rent, and we insist on the term " rent " certain present taxation powers of the provinces, which could reasonably be rented without hampering in any way the march forward, the progress and the prosperity of the Province.

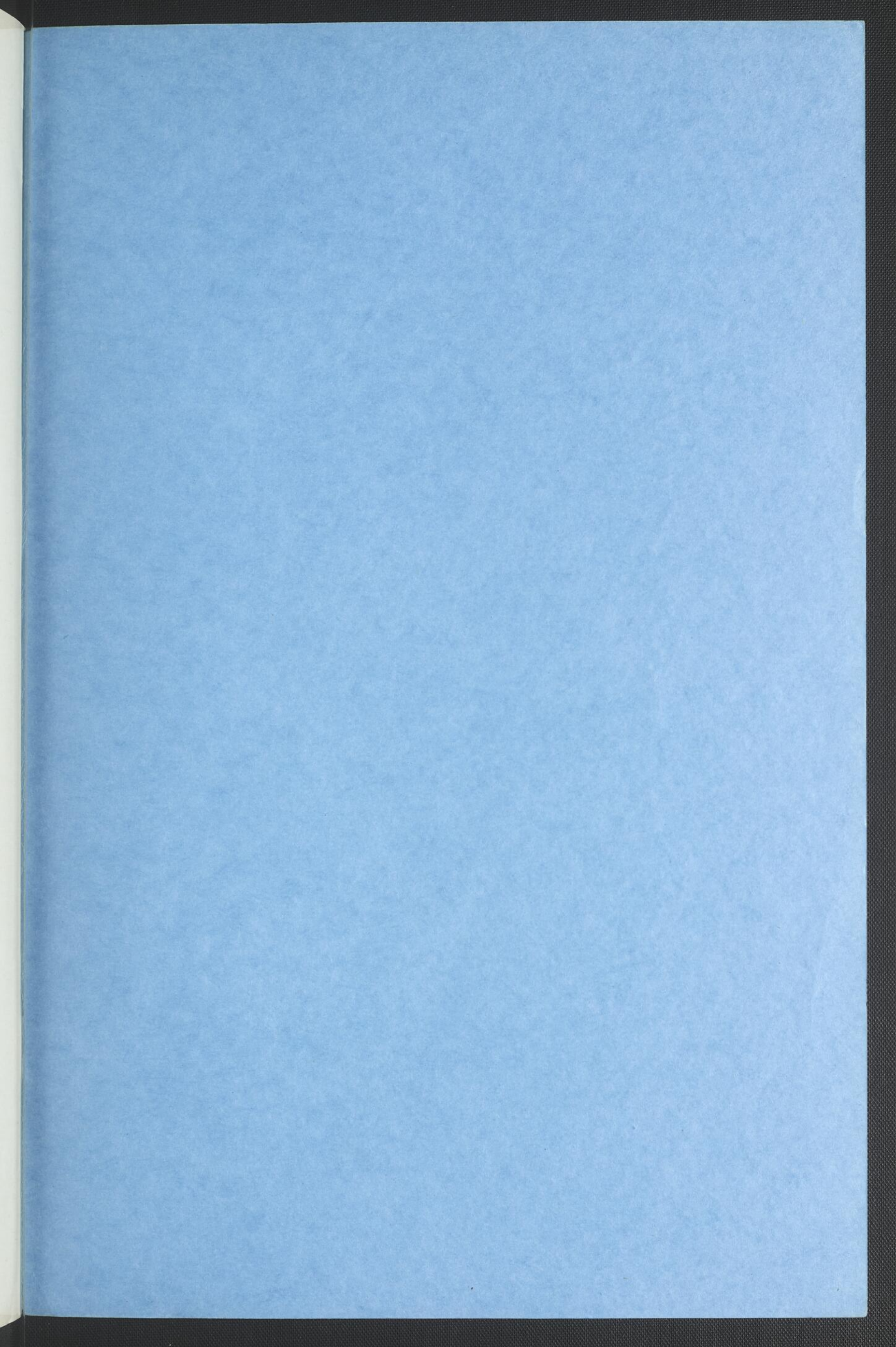
We reiterate to you then the sincere desire of the Province of Quebec to collaborate and co-operate with a view to the prosperity and the greatness of the country. This ideal cannot certainly be achieved without the greatness and the prosperity of the autonomous provinces being likewise guaranteed and safeguarded.











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