

Statement on Bill 99

by the Executive Committee of Alliance Quebec

MONTREAL, December 15, 1999 - Bill 99, introduced today in the National Assembly, is a jumble of grandiloquent rhetoric and a string of statements which are by turn false, misleading, meaningless, tendentious and subversive. It goes far beyond dealing with a referendum on secession to promote the Parti Quebecois government's current campaign to give Quebec its own independent international voice. The sum total amounts to creeping separatism, secession by stealth, by indirection, by proclamation, by a *coup de force* of the National Assembly.

This "bill" will not produce a true law in the real world. It is a pompous rhetorical exercise meant to influence minds and push Quebecers down the road towards sovereignty.

If this bill were to be taken literally, it would amount to a unilateral declaration of independence, because it claims in several articles that Quebec is not bound by the constitution of Canada and so must be independent.

Article 1, claiming "the right of the Quebec people to self-determination," is meaningless. Quebec is not a colony emerging from domination. The people exercise self-determination under the constitution as part of a sovereign country, Canada.

Article 2, claiming that "the Quebec people alone has the right to decide the political regime and legal status of Quebec," is false in law, as the Supreme Court of Canada determined in the reference on secession. Quebecers are governed by a legitimate constitutional federal regime based, not just on votes, as the court said, but also on the rule of law, the principle of federalism and the rights of minorities. Article 2 would repudiate the rule of law and the principle of federalism. Article 3 also claims the unilateral right for "the Quebec people" to make any decision without reference to the constitution and the federal structure of Canada. It is unconstitutional, and would mean the overthrow of the constitution.

Article 4 claims that, when people are consulted "under the Referendum Act, the winning option is the option that obtains ... 50 per cent of the valid votes cast plus one." The Referendum Act says no such thing. It specifies no threshold for victory. Moreover, the 1977 white paper that announced and explained the Referendum Act repudiated explicitly any threshold for "winning:"

“The referendums that will be held under the law that the government intends to introduce would have a consultative character.... This consultative character of referendums means that it would be useless to include in the law special terms with respect to the required majority or the required participation rate.” (Gouvernement du Québec, *La consultation populaire au Québec*, p. 7)

For purposes of comparison, note Article 1108 of the Civil Code of Quebec, which deals with how to put an end to joint ownership of a condominium.

“1108. Co-ownership of an immovable may be terminated by a decision of a majority of three-quarters of the co-owners representing 90 per cent of the voting rights of all the co-owners.”

Article 8 states: “The territory of Quebec and its boundaries cannot be altered except with the consent of the National Assembly and the government. The government must ensure that the territorial integrity of Quebec is maintained and respected.” This statement is correct while Quebec continues as a province of Canada under the constitution. But, should the Quebec government repudiate the constitution, it would forfeit the protection of the constitution. A secessionist Quebec outside the constitution would be limited to the territory it could control. If secession were to be effected under the constitution, by an amendment to the constitution of Canada, this would follow negotiations, and one item to be negotiated is the boundary of Ex-Quebec, as the Supreme Court said. To refuse to negotiate boundaries would show lack of good faith and the negotiations would fail. Quebec cannot claim in good faith that Canada is divisible but Quebec is indivisible.

Article 9 claims Quebec’s jurisdiction over the entire territory. This is misleading. Quebec law enjoys limited jurisdiction under the constitution over the lands of natives. Those lands, which belong collectively to the natives, are held in trust for them by the federal government and the Quebec government cannot simply take these lands hostage against the will of the first nations.

In sum, Bill 99 represents the magic thinking of Lucien Bouchard, of his party and his government. It represents wishful thinking rashly put into the form of a bill. Before even consulting the will of the people with respect to secession, the Quebec government is waving a magic wand that will supposedly make Quebec independent of the constitution. It is a rash and irresponsible undertaking, a desperate measure by secessionists who see their dream of achieving secession by cunning checked by a federal bill to require clarity.

The bill is clearly beyond the jurisdiction of the National Assembly, since it claims powers for the National Assembly that would repudiate the constitution. It is

explicitly revolutionary and unconstitutional, it even proposes the overthrow of the constitution.

The Quebec Liberal Party is to be congratulated for refusing to be part of this immense fraud being perpetrated against all Quebecers. The bill must be tested in court at the first opportunity to expose the duplicity and irresponsibility of the PQ government. Quebec, despite the PQ government, is part of a modern federation that respects the rule of law. The people respect the rule of law. They'll not be stampeded away into a reckless adventure that endangers their peace, their prosperity and the stability of their society.