

SECOND GOVERNMENT OF ROBERT BOURASSA

(PERIOD FOLLOWING THE FAILURE OF
THE MEECH LAKE ACCORD, JUNE 22, 1990
TO JANUARY 11, 1994)



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Source: Archives nationales du Québec

••• Status of Québec

297. English Canada must clearly understand that, regardless of what is said or done, Québec is today and always will be a society that is distinct, free and able to assume its destiny and development.³¹⁷

298. On September 4, 1990, the National Assembly adopted An Act to establish the Commission on the Political and Constitutional Future of Québec (Bélanger-Campeau Commission). The preamble of this law states that Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development. The preamble goes on to mention the need for redefining the political and constitutional status of Québec.³¹⁸

299. The report produced by the Bélanger-Campeau Commission confirms that in the discussions and decisions that will be made regarding the political and constitutional future of Québec, two avenues must be considered in parallel: an in-depth reorganization of the current federal system or sovereignty for Québec. The other solutions would not answer the needs and aspirations of Québec society.³¹⁹

300. The main idea behind the report and the recommendations of the Commission is that Quebecers themselves must make the decisions which will affect their political and constitutional future. With this, the Québec government concurs. In good time, the people of Québec will be called upon to make major decisions for its future. On the one hand, the Québec government retains its initiative and its ability to assess the measures which will be in the best interest of Québec. On the other hand, the National Assembly remains sovereign to decide on any referendum question and, if necessary, to adopt the appropriate legislative measures.³²⁰

301. On June 20, 1991, the Québec National Assembly adopted An Act respecting the process for determining the political and constitutional future of Québec ("Bill 150"). The preamble of this law reiterates that Quebecers are free to assume their own destiny, to determine their political status and to assure their

317. Speech by Robert Bourassa upon the rejection of the Meech Lake Accord, Québec National Assembly, *Journal des débats*, June 22, 1990, p. 4134 (quotation [Translation]; see part 2 of this document).

318. Q.S. 1990, c. 34 (Part 3: document no. 24).

319. Statement by the Prime Minister of Québec, Robert Bourassa, and Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, 1st addendum of the *Report of the Commission on the Political and Constitutional Future of Québec*, March 1991, p. 86.

320. *Ibid.*, p. 87 (quotation).

economic, social and cultural development. The preamble also reaffirms the need for redefining the political and constitutional status of Québec.³²¹

302. That the National Assembly, while recognizing the right of the federal Parliament to pass a referendum act, ask the federal government to abide by the process established in Bill 150 and, accordingly, not to initiate a pan-Canadian referendum that would affect the political and constitutional future of Québec, thus reaffirming the right of Quebecers to assume their own destiny freely and to determine alone their political and constitutional status.³²²

303. The government's preferred option remains a radically renewed federalism. A federalism in which Québec can give full expression to what it is and share what it has in common with the rest of Canada.³²³

304. The September 1991 federal proposals recognize the distinct society in the Constitution in two places. First in the Charter for its interpretation and second in a Canada clause that is also inserted in the Constitution. Nonetheless, the Canada clause must not be a disguised preamble as that could be the case in the federal proposals as they are worded. The distinct society concept must not be an artifice, but the recognition of an historic reality, since at least 1774, in the Québec Act. We do not want to be considered superior to the other provinces, we are not seeking any special privileges,

we only want this clause to allow the courts to interpret the Canadian Constitution based on our reality, our history.³²⁴

*Distinct society: See also paragraphs 310 and 313
(Charlottetown Accord).*

305. From the analysis of the two options made by the parliamentary commissions set up under Bill 150, it demonstrates that sovereignty is legitimate and feasible. On a short-term basis, it points to costs both for Québec and the rest of Canada. It also indicates from testimonies that an economic association integrated into a political structure could lead to an efficient and harmonious collaboration for the better well being of both communities.³²⁵

••• Constitutional reform process

306. If anything can be concluded from the most recent constitutional negotiations, it is that the existing process of constitutional revision in Canada is discredited. The Québec government will not return to the negotiating table on constitutional issues.³²⁶

307. On September 4, 1990, the National Assembly adopted An Act to establish the Commission on the Political and Constitutional Future of Québec. This is an extraordinary commission bringing together representatives from the Québec National Assembly, society in general and Québec representatives from the House of Commons. Its mandate is to study and analyze the political and constitutional status of Québec and to formulate recommendations to this end.³²⁷

321. Q.S. 1991, c. 34, amend. by Q.S. 1992, c. 47 (Part 3: documents nos. 25 and 28).

322. Resolution of the Québec National Assembly dated November 27, 1991 (quotation; part 3: document no. 26).

323. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, before a banquet of the Chambre de Commerce d'Anjou, Montréal, January 15, 1992, p. 8 (quotation).

324. *Ibid.*, p. 9-10.

325. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 8 (See part 2 of this document).

326. Message to the people of Québec by Prime Minister Robert Bourassa, June 23, 1990 (See part 2 of this document).

327. Q.S. 1990, c. 34 (See part 3: document no. 24).

308. Québec can no longer accept being one amongst eleven in the constitutional forum. We say no to a constituent assembly or any other form of negotiation that will put Québec face to face as one amongst eleven.³²⁸
309. Following the Bélanger-Campeau Commission's report, on June 20, 1991 the National Assembly adopted An Act respecting the process for determining the political and constitutional future of Québec, which provided for the holding in June or October 1992 of a referendum on the sovereignty of Québec and implemented two committees, one to examine matters relating to the accession of Québec to sovereignty and the other, to examine any offer of a new constitutional partnership.³²⁹
310. The principles Québec refers to in the current constitutional debate are:
- 1) The substance of the five conditions included in the Meech Lake Accord cannot be altered.
 - 2) The powers of the National Assembly cannot be reduced without its consent. Québec must be able to say "No" to any constitutional amendment affecting the powers of the National Assembly as well as the institutions and main features of the Canadian federation. No Québec government can agree to a constitutional accord that does not include a *veto*.
 - 3) Constitutional recognition of Québec as a distinct society is indispensable. The concept cannot be an empty shell. It must have significant political and legal consequences.
 - 4) Québec shares the objective of a stronger and more dynamic economic union. We must look for ways that draw on intergovernmental harmonization and joint consultation to develop the Canadian economic union. The means proposed in September 1991 by the federal government are disproportionate compared to the objectives.
 - 5) A new distribution of powers is needed to clearly confirm Québec's areas of jurisdiction. This distribution must lead to a more effective, more cooperative federalism that will reduce overlapping and provide Québec with the means it needs to protect and promote its identity.
 - 6) The federation must be renewed constitutionally. In some areas of joint jurisdiction, simple administrative arrangements may be useful, but they are not sufficient for the overhaul of the distribution of powers we need. It is a known fact that administrative agreements remain at the mercy of federal legislation. They are insufficient. No level of government benefits from a systematic recourse to administrative agreements.
 - 7) The territorial integrity of Québec must be respected. The government cannot accept having entrusted to the courts the role of specifying the nature and conditions for applying the rights of Aboriginal peoples to self-government; Québec is prepared to recognize Aboriginal Peoples' right to self-government,

328. Speech by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, Deliberations concerning Bill 150, Québec National Assembly, *Journal des débats*, June 12, 1991, p. 9115 (quotation) [Translation].

329. Q.S. 1991, c. 4, as assented to on June 20, 1991 (Part 3: document no. 25).

but within the framework of duly negotiated agreements between the Aboriginal Peoples and the government of Québec.³³⁰

311. The deadline set forth by Bill 150 should not be considered a sword of Damocles hanging over the head of Canadians. Quebecers have given themselves this instrument to finally put a stop to constitutional uncertainties and to build their future with serenity. Bill 150 is no bluff.³³¹

312. The Charlottetown Accord is concluded on August 28, 1992.³³² On September 8, 1992, the Québec National Assembly adopted An Act to amend the Act respecting the process for determining the political and constitutional future of Québec, which replaces the referendum on Québec sovereignty by a referendum on this agreement.³³³

313. The Charlottetown Accord constitutes the most complete and substantial basis for constitutional reform that has ever been presented by a government of Québec following negotiations with the federal government and the other provinces. It reflects two major concerns that have always been significant for Québec: its security as a society, a people and its means for development as the distinct society that it is.

1) The Accord has a Canada Clause divided into three parts.

In the first part, the clause refers to the fundamental values that Canadians and Quebecers share in common: liberty, democracy, fundamental rights, equality of

women and men, attachment to the fact that there are Aboriginal Peoples, attachment to the fact that there are English and French-Speaking Canadians, and to the fact that Québec is a distinct society within Canada.

The second part of this Canada Clause states that: "The role of the legislature and Government of Québec to preserve and promote the distinct society of Québec is affirmed." Nowhere else in the Canada Clause is the role of a government mentioned. This essentially dynamic role of Québec institutions to preserve and promote the distinct society were not gratuitously put in this second paragraph of the clause.

In its third part, the Canada Clause contains what is known as a protection clause, i.e. a ground level that ensures that vested rights cannot be touched, but that it remains possible to build on this solid ground level since it guarantees the "notwithstanding" clause.

2) The Accord guarantees Québec the selection of its immigrants, its proportion of immigration as well as its capacity for integration into Québec society, a constitutionalized guarantee that cannot be changed without the consent of Québec.

3) It grants Québec a guarantee of three of the nine justices of the Supreme Court of Canada and protects the jurisdiction of the latter.

330. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, before a banquet of the Chambre de Commerce d'Anjou, Montréal, January 15, 1992, p.9-11; Speaking notes for Gil Rémillard at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p.2-7 (See part 2 of this document).

331. Speaking notes for the Whistler Meeting, *ibid.*, p. 8 (quotation).

332. *Consensus Report on the Constitution*, Charlottetown, August 28, 1992 (Part 3: document no. 27).

333. Q.S. 1992, c.47 (Part 3: document no. 28).

- 4) As regards federal spending power, it recognizes Québec's right to opt-out with compensation from shared-cost programs. As for exercising the spending power in provincial areas other than through shared-cost programs, a framework will be implemented by the first ministers. The principles of this framework will be constitutionalized. It should specify that the exercising of the spending power must respect provincial priorities.
 - 5) Under the Accord, Québec recovers a right of *veto* over the Senate and the House of Commons where, in addition, it is guaranteed 25 % of the seats. Québec has a right of *veto* over the entry of new provinces and, consequently, recovers an absolute right of *veto* over the amending formula. There is also a right of *veto* over the distinct society and a right of *veto* over the "notwithstanding" clause.
 - 6) The Accord provides for a Senate that will be equitably equal in that each province will have six senators, the Yukon territory will have one and the Northwest Territories, also one. The senators may be appointed or elected either directly or indirectly, i.e. it will be up to the provinces to decide, and this will be in the Constitution. The Québec National Assembly will therefore be able to elect its senators. The new Senate could have been called the federation chamber. The transformation of its powers will make it more representative of the provinces' interests. The new Senate will allow Québec in some ways to extend its political action to level of this new institution of the federal Parliament.
 - 7) The Accord acknowledges in constitutional terms the right of Aboriginal Peoples to self-government. Québec's territorial integrity is ensured. Limits are set so that autonomous aboriginal governments may exercise their authority based on the respect of essential provincial and federal laws for respecting peace, order and good government. Resorting to the courts will be possible in cases of difficult negotiations.
 - 8) Under the Accord, six sectors fall into exclusive provincial jurisdiction: forestry, mining, tourism, housing, recreation, municipal and urban affairs. Forestry and mining were already under provincial jurisdiction. As for the other four sectors, it was said that they are attached to provincial jurisdiction over property and civil rights. Yet, since these sectors were not expressly mentioned, the federal government also claimed its own jurisdiction over them. The Agreement ends this dispute. It also provides agreements for withdrawals with entitlements to financial compensations, agreements that could be reviewed and adjusted every five years.
- The Accord recognizes two other extremely important exclusive areas. First in cultural affairs, while recognizing federal jurisdiction in matters of national institutions and a federal role to be played nationally for a Canadian culture. There should also be a federal-provincial agreement to ensure Québec's prevalence over culture within its territorial boundaries. The other recognized exclusive power is labour training. The Québec government did not request jurisdiction over

unemployment insurance owing to the costs of a billion dollars that this transfer would have caused. Nonetheless, what Québec does obtain, especially, is the possibility of administering the unemployment insurance fund.

The Agreement also touches upon another extremely important jurisdiction: regional economic development. The current Québec-Canada agreement in this area could be enshrined in the Constitution and improved, in connection with the framework to be set up for the spending power and respect for provincial priorities. Lastly, in the field of telecommunications, Québec could through an agreement with the federal government, appoint commissioners to the Canadian Radio-Television and Telecommunications Commission.³³⁴

314. On October 26, 1992, in the referendum held in Québec on the Charlottetown Accord, the No option carried the day with 56.68 % of electoral votes and the Yes option obtained 43.32 %.³³⁵

••• Constitutional amending procedure

315. The Constitution Act, 1982 indeed provides for a right to opt out, but it carries with it financial compensation only with respect to transfers related to culture and education. The possibilities of such financial compensation should be broadened so as to include

all cases of opting out, as provided in the Meech Lake Accord. As for the matters dealt with in section 42 of the Constitution Act, 1982 (central institutions, the Senate and the creation of provinces), Québec, as one of the major partners in the federation, is entitled to demand that it have a say in any amendment concerning those matters, since they are at the very heart of the federal compromise of 1867.³³⁶

*Veto: See also paragraphs 310 and 313
(Charlottetown Accord).*

••• Distribution of powers

a) General principles

316. The search for greater effectiveness must also guide us in establishing a new division of powers that will clearly delineate the jurisdictions of the two levels of government. We should find in the new constitution a division of power establishing a more functional, more cooperative federalism that will reduce overlaps and guarantee that Québec and the other provinces have the means necessary to protect and promote their distinctive characteristics.³³⁷

317. It is the essence of federalism to meet the different needs of the federal partners. [...] Asymmetry and federalism are compatible. Without overestimating its implications, we may view asymmetry as an important means of establishing a division of powers likely

334. Speech by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, on the Charlottetown Accord, Québec National Assembly, *Journal des débats*, September 3, 1992, p. 3087-3094.

335. See Directeur général des élections du Québec, *Rapport des résultats officiels du scrutin. Référendum du 26 octobre 1992*, 1992, p. 49 (see extract of the Official Report and the text on the referendum question in part 3: document no. 29). The Charlottetown Accord was also rejected by the rest of Canada by a separate referendum held under federal legislation on October 26, 1992. In the rest of Canada, the No option carried the day with a 54.3% result of votes validly cast, the Yes option obtained a result of 45.7%. See Chief Electoral Officer of Canada, *The 1992 Federal Referendum: A Challenge Met*, 1994, p. 58.

336. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 4 (See part 2 of this document).

337. *Ibid.*, p. 5 (quotation).

to satisfy both Québec and the other provinces, while consolidating the foundations of the federal government in regard to its national responsibilities.³³⁸

318. The distribution of legislative powers [...] must refer to two fundamental principles [...]: that we may have the legislative tools for expressing who we are as a society, as a people, in social and cultural matters as in the economy, and that we may also have an efficient federation to avoid duplications.³³⁹

The need for a constitutional, rather than an administrative reform: See paragraph 310.

b) Sectorial jurisdictions

319. In the current constitutional framework, the government of Québec does not have all the needed powers for attaining by itself the objectives of its political position in matters of immigration and integration. This is why Québec seeks to enlarge its jurisdictions in order to increase not only its ability to act, but also the efficiency of its actions.³⁴⁰

320. [...] Since 1986, the Québec Government has been seeking constitutional recognition of Québec's exclusive powers on establishing the criteria, selecting independent immigrants and extending its powers to on-site selection. Similarly, Québec is seeking the guarantee of receiving a number of immigrants proportional to its share of the Canadian population, with the right to exceed this number by 5 % to

maintain its weight within the Canadian Confederation. The Québec government holds that these minimal demands remain essential for an immigration policy the aim of which is to develop Québec as a distinct society.³⁴¹

321. To align all action in integration of newcomers with Québec's objectives, Québec has since 1986 been demanding exclusive control over immigrant reception services and their cultural, linguistic and economic integration, along with reasonable financial compensation.³⁴²

Immigration: See also paragraphs 310 and 313 (Charlottetown Accord).

322. In the current constitutional context, as Minister of Cultural Affairs, I want to restate Québec's need to have prevalence in cultural matters within its territorial boundaries. The issue of culture is of fundamental importance for Québec. In this respect, it is essential that be recognized to its government the exclusive powers it needs to assume its responsibilities.³⁴³

Culture and Charlottetown Accord: See paragraph 313.

323. Faced with federal initiatives in the field of education undertaken in the name of the Canadian economy's competitive edge, Québec's positions are as follows:

- Québec is fully prepared to discuss businesses' competitive edge and the means for reviving the economy

338. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 5-6 (quotation) (See part 2 of this document).

339. Declaration by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs in the debate on the status of constitutional negotiations, Québec National Assembly, *Journal des débats*, Commission permanente des institutions, May 29, 1992, p. CI-530 (quotation) [Translation].

340. Message by Robert Bourassa, in ministère des Communautés culturelles et de l'Immigration, *Let's Build Québec Together: A policy statement on immigration and integration*, 1990, p. III.

341. Ministère des Communautés culturelles et de l'Immigration, *Let's Build Québec Together: A policy statement on immigration and integration*, 1990, p. 24 (quotation).

342. *Ibid.*, p. 49 (quotation).

343. Message by Liza Frulla-Hébert, ministère des Affaires culturelles, *Québec's Cultural Policy: Our culture, Our future*, 1992, p. vii-viii (quotation) [Translation].

within the framework of a strategy for economic prosperity, but any impact on the educational objectives must remain within the exclusive power of Québec, especially as regards post-secondary education and vocational training.

- In education, it is up to Québec to decide on the management, distribution and utilization of resources allocated to this sector.
- As regards common objectives (or national ones) in education, it is up to the provinces—within their exclusive powers—to define them, as it is up to them to decide on the opportunity to answer the needs identified by the federal government in the exercising of its own jurisdictions and whose solution falls within the field of education.³⁴⁴

324. Québec's constitutional basis in education reflects a lively socio-cultural reality and evokes the bonds of close symbiosis between universities, the community and their government. Québec cannot denounce this "strategic alliance" and invite the federal government to step in and orient the development of a university system that is so closely associated with the development of Québec society. This does not mean that Québec refuses to associate itself with major knowledge and research networks or wants to dissuade its researchers from competing with the best in continental or global contests. It just means that when the issue is one of basic catalytic actions, Québec cannot see someone being authorized to come in from the outside and decide what its priorities

are to be. This should not be construed that Québec refuses fiscal or even financial transfers—it actively seeks them; it's more a question that it sees such amounts being deposited into the province's general fund, with even less strings attached that would be tantamount to having its priorities set.³⁴⁵

325. As other modern societies, Québec must define its own labour orientation policy on labour force adjustments. Despite the meritorious efforts for coordinating federal government actions with those of the Québec government in labour force issues, the complexity of the programs and the confusion they generate have continuously increased over the years. There is in Québec a consensus on the urgent need to put an end to this disorder by appointing just one administration, the government of Québec, to assume the responsibilities and budgets pertaining to the labour force adjustments. In this context, the government of Québec defends the following position:

- That Québec alone become the sole responsible party for labour force adjustments policies and vocational training within its territorial boundaries, and the only administration entrusted with developing and administering in cooperation with its social partners training, adjustments and job-assistance programs.
- That for this purpose, Québec patriate all federal budgets, including those funded from unemployment insurance and assigned to labour force programs.

344. *Le Québec et les universités, partenaires dans une société distincte*, notes for a speech by Lucienne Robillard, Minister of Higher Education and Science, at the closing banquet of the General Meeting of the Association of Universities and Colleges of Canada, (AUCC), Vancouver, March 4, 1992, p. 5.

345. *Ibid.*, p. 6.

- That the government of Québec be responsible within its territorial limits for the administration of unemployment insurance programs while maintaining the responsibility of the federal government regarding the regime's law and regulations.³⁴⁶

326. The control over all the instruments used for labour force adjustments and vocational training policies can be done within the current constitutional framework.³⁴⁷

*The Charlottetown Accord and labour force issues:
See paragraph 313.*

327. The Québec government's guidelines in the field of economic and regional development, plus its relationship with the federal government are in this respect:

- The primacy of Québec's responsibility for the planning and setting of economic development and regional priorities within its territorial limits;
- The need for using procedures, structures and programs set up or approved by Québec;
- Québec predominance over all programs and projects falling under its jurisdiction.³⁴⁸

*Economic development and the Charlottetown Accord:
See paragraph 313.*

328. Québec has never suggested that it would renounce or delegate any part of its responsibilities in the field of stock exchange securities.³⁴⁹

329. In making a distinction between international affairs and foreign policy, and in choosing an approach centred on Québec's interests, the foundations and impetus of the resulting policy are not likely to be brought into question. Indeed, in a modern context no government can meet its domestic responsibilities effectively without taking the international dimension into account, and it must act within this framework, according to its means.³⁵⁰

330. Under the Canadian Constitution, social and health care issues indisputably fall within the exclusive power of the provinces. Over the past twenty-five years, the government of Québec has remarkably exercised its responsibilities and it has endowed the health care and social affairs sectors with high-quality administrations. These success stories eloquently prove—and the citizens of Québec have every reason to agree—that Québec would have nothing to gain by a new distribution of powers in these sectors. Until today, they have been under exclusive provincial jurisdiction and, for the best interests of Quebecers, they are there to stay.³⁵¹

346. Ministerial declaration by André Bourbeau, Minister of Labour, Income security and Vocational training, Québec National Assembly, *Journal des débats*, December 13, 1990, p. 6316-6317; ministère de la Main-d'œuvre, de la Sécurité du revenu et de la Formation professionnelle, *Partners for a Skilled and Competitive Québec: Policy statement on labour force development*, 1991, p. 45-46; document dealing with Québec's position in the labour sector, Federal-Provincial-Territorial Conference of Ministers responsible for Labour Market Matters, Toronto, January 19 and 20, 1993, p. 3-4.

347. Ministerial declaration by André Bourbeau, *ibid.*, p. 6317 (quotation) [Translation].

348. Preliminary comments by Gil Rémillard during a credit analysis session 1992-1993 of the Minister responsible for Canadian Intergovernmental Affairs, Québec National Assembly, *Journal des débats*, Commission des institutions, April 30, 1992, p. C1-288.

349. Letter from Louise Robic, Minister responsible for Finance, to Gilles Loiselle, Minister of State for Finance and Chairman of the Treasury Board of the government of Canada, January 13, 1993 (quotation) [Translation].

350. Foreword by John Ciaccia, ministère des Affaires internationales, *Québec and Interdependence: Global Horizons. Elements of an international affairs policy*, 1991, p. viii (quotation).

351. Ministère de la Santé et des Services sociaux, *Québec's Health and Social Services: Equitable Funding. Living within our Means*, 1991, p. 84.

*Financing Health Care and Social Services:
See paragraph 336.*

331. By a unanimous resolution, the Québec National Assembly has strongly disapproved Bill C-13 respecting the federal environmental assessment process. The federal bill seeks to excessively extend cases of federal assessment, especially by integrating the exercising of the spending power. It is foreseeable that the duplicate assessment of projects in environmental issues will become the rule rather than the exception. The duplication of assessments could have a negative impact on economic development and public participation. It also creates the risk of legal uncertainty, which could lead to numerous litigations. All the provisions for cooperation or harmonization set forth in the bill contribute to subordinating Québec procedures to the federal process. The joint examination process is one that actually puts the provincial government under the supervisory authority of the federal government. The bill multiplies cases where federal domination and provincial subordination may occur. It must be accepted in principle that throughout Canada, there may be different or distinct assessment procedures, but all having the same value. It is on the basis of this principle that true cooperation will be instilled in the future.³⁵²

332. The [Canadian] Green Plan set alongside Bill C-13, appears in many ways as a deliberate strategy for dispossessing the provinces of their responsibilities in the field of environment and for

ensuring federal takeover in this area. [...] In performing these two actions, the federal government has endowed itself with a kind of domination in the entire field of the environment, including that which was constitutionally reserved for the exclusive control of the provinces and for which Québec has for many years now exercised its responsibilities.³⁵³

*Housing: See paragraphs 313
(Charlottetown Accord) and 337.*

*Forestry, mining, tourism, recreation,
municipal and urban affairs: See paragraph 313
(Charlottetown Accord).*

*Economic union and distribution of powers:
See paragraphs 310 and 341.*

c) Unilateral powers

*Federal spending power: See paragraph 310 and 313
(Charlottetown Accord).*

••• Individual and language rights

333. The preamble of the Act establishing the Bélanger-Campeau Commission expresses, among other things, the following considerations:

- Whereas Québec has already demonstrated its respect for democratic values and individual rights and freedoms;
- Whereas Québec has recognized that Quebecers wish to see the quality and influence of the French language assured and to make it the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;

352. Speaking notes for Pierre Paradis, Minister for the Environment, before members of the Standing Senatorial Energy, Environment and Natural Resources Committee, Ottawa, June 16, 1992.

353. *Ibid.*, p. 12-13 (quotation) [Translation].

- Whereas Québec intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the rights and institutions of the English-Speaking Community of Québec.³⁵⁴

••• Institutions

334. There must be a specific role for the Senate. In this context, the government of Québec is prepared to enter into discussions while always respecting the principle, which is fundamental for Québec, that there will be no diminishing of Québec's role regarding the Senate as with all other federal institutions.³⁵⁵

The reforming of federal institutions: See also paragraphs 310 and 313 (Charlottetown Accord).

Economic union (The federation council project) and Executive Federalism: See paragraph 341.

••• Intergovernmental policy

a) Conducting intergovernmental relations

335. The position of my government from now on is to negotiate bilaterally and not with eleven entities, to negotiate with the Canadian government that represents the entire population of Canada, bilateral negotiations between the government of Québec and the federal government. Obviously, we will have negotiations with other provinces

on a bilateral basis. It is also obvious that we may decide to participate in some conferences where Québec's interests are at stake, but never on constitutional matters.³⁵⁶

b) Financial aspects of federalism

336. The financing of health care and social services will require a revision of federal-provincial collaboration based on the following two principles:

- Reestablishment of the federal transfers payments for the established programs financing (EPF)

Federal-provincial collaboration would be reaffirmed on the basis of renewed federal interest in common objectives pursued in health care. Federal contributions to EPF should be based upon economic indicators that take the evolution of expenditures into consideration.

- Reduction of the limits to the provinces' exercise of responsibility.

It seems reasonable to ask the federal government, in following the example of all participants, to contribute to solving the deadlock in financing by refraining from setting rules on financial and fiscal transfers that restrict the full exercising of their responsibilities by the provinces, especially with regard to the defining of the basket of insured services and access to services.³⁵⁷

354. An Act to establish the Commission on the Political and Constitutional Future of Québec, Q.S. 1990, c. 34 (See part 3: document no. 24); these elements were taken from the preamble of An Act respecting the process for determining the political and constitutional future of Québec, Q.S. 1991, c. 34, amend. by Q.S. 1992, c. 47 (See part 3: documents nos. 25 and 28).

355. Declaration by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs on the government's position regarding proposals for reforming the Senate, Québec National Assembly, *Journal des débats*, April 15, 1992, p. 598.

356. Message to the people of Québec by Prime Minister Robert Bourassa, June 23, 1990 (quotation [Translation]; see part 2 of this document).

357. Ministère de la Santé et des Services sociaux, *Québec's Health and Social Services: Equitable Funding, Living within our Means*, 1991, p. 88-89.

337. The unilateral withdrawal without prior consultation of the federal government from the Canada-Québec Global Agreement on Social Housing is a rather unacceptable manner for proceeding between two governments. Furthermore, the announced budget freeze of the Canada Mortgage and Housing Corporation (CMHC) will perpetuate a situation, which as regards federal transfers, is unfair for Québec. Indeed, the CMHC's share of budgetary expenditures that are made by Québec hardly exceed 19%. This is on the one hand genuinely below the proportion of really needy households living in Québec. It is also on the other, quite lower than the demographic weight of Québec as contrasted with the whole of Canada. The freezing of the CMHC's budget and the discontinuance of any new commitment threatens to forever eliminate any possibility Québec would have of hoping to catch up in making in its share of the federal expenditures intended for social housing. The current federal withdrawal penalizes Québec far too heavily and cannot be done without some adequate financial compensation.³⁵⁸

c) Aboriginal Nations

338. The preamble of the Act to establish the Commission on the Political and Constitutional Future of Québec bears the following message: Whereas Québec recognizes the right of the

Amerinds and the Inuit of Québec to preserve and develop their specific character and to assure the progress of their communities [...].³⁵⁹

339. The territory of a province may not be changed without the province's consent. This principle is already entrenched in section 43 of the Constitution Act of 1982, and must be abided by in any constitutional agreement recognizing the right of the Aboriginal peoples to self-government. The Québec National Assembly has recognized the principle of Aboriginal self-government in the framework of agreements with the governments.³⁶⁰

*Self-government and territorial integrity:
See also paragraphs 310 and 313
(Charlottetown Accord).*

*d) French-Speaking and Acadian
Communities of Canada*

340. The preamble of the Act to establish the Commission on the Political and Constitutional Future of Québec bears the following message: Whereas Québec supports French-Speaking Communities outside Québec and contributes to the International French-Speaking world; [...].³⁶¹

e) Trade

341. Québec shares the objective of a stronger and more dynamic economic union and is in favour of the free circulation of goods, persons, capital and labour. It favours the elimination of

358. Letter from Claude Ryan, Minister of Municipal Affairs, responsible for Housing, to Elmer Mackay, Minister responsible for the Canada Mortgage and Housing Corporation, Québec, June 1, 1993.

359. Q.S. 1990, c. 34 (quotation; see part 3: document no. 24); see also the preamble of An Act respecting the process for determining the political and constitutional future of Québec, Q.S. 1991, c. 34, amend. by Q.S. 1992, c. 47 (See part 3: documents nos. 25 and 28).

360. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 6 (quotation; see part 2 of this document).

361. Q.S. 1990, c. 34 (quotation; the statute is reproduced in part 3, see document no. 24); see also the preamble of An Act respecting the process for determining the political and constitutional future of Québec, Q.S. 1991, c. 34 amend. by Q.S. 1992, c. 47 (See part 3: documents nos. 25 and 28).

obstacles to the free circulation of economic resources. We must look for ways that draw on intergovernmental harmonization and joint consultation to develop the Canadian economic union. The federal proposals of September 1991 are in this respect disproportionate compared to the objectives that are to be pursued. Specifically, the courts should not manage the economy or intervene in the drafting or implementation of economic policy. Nor should federal authorities be given unlimited powers that could destroy the powers of the provincial legislatures.

Furthermore, do we need a new institution, the Council of the Federation,

when we can very easily get along with existing institutions? For example, the First Ministers' Conference on the Economy, as was stipulated in the Meech Lake Accord, could be constitutionalized and supplemented by a permanent secretariat, which is already in place and is responsible for preparing federal-provincial conferences. We would thereby respect the principles of executive federalism, which is one of the main characteristics of our Canadian Federation and which directly involves the provincial first ministers in the drafting of national policies, through federal-provincial conferences.³⁶²

362. Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, before a banquet of the Chambre de Commerce d'Anjou, Montréal, January 15, 1992, p. 10; speaking notes for Gil Rémillard at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 4-5 (See part 2 of this document).