

GOVERNMENT OF LUCIEN BOUCHARD

(JANUARY 29, 1996 TO MARCH 8, 2001)



••• Status of Québec

377. In North America, Québec is the only society with a French-Speaking majority, a well-defined territorial base, and political institutions it controls. The people of Québec possess all the traditional characteristics of a nation. [...] The Québec people subscribe to the democratic concept of a French-Speaking nation, pluralist in its culture, and open to international immigration [...].³⁹⁹

378. [In the Bertrand case], the federal government took the serious decision to go before a court to assert that the future of Quebecers does not belong to them. [...] To those who would have forgotten, to those who would deny it, to those who fear the strength of Québec, but mainly to us, who must state loud and clear that we are entitled to dispose of our own destiny, that we have set the most democratic rules of all, that we have respected

the popular vote each time expressed and that, each time, our democracy has grown in strength, our right to choose become that much stronger. [...] There is nothing more sacred in the democratic life of a people than its capacity to dispose of its own destiny. This is the very essence of their liberty.⁴⁰⁰

379. As a reaction to federal intervention in the Bertrand case, the Québec National Assembly adopted the following resolution: "That the National Assembly reaffirm that the people of Québec are free to take charge of their own destiny, to define without interference their political status and to ensure their economic, social and cultural development."⁴⁰¹

380. The only judge and jury on the future of Québec happens to be the people of Québec. No judge can stand in the way of a people's democratic expression. The government of Québec will not go before the Supreme Court of Canada regarding the federal government's Reference concerning the future of the Québec people. This is a purely political and not legal issue.⁴⁰²

381. That the National Assembly demand that the men and women politicians of Québec recognize the will, democratically expressed by Quebecers in the referendum of 30 October 1995 held in compliance with the Referendum Act, thus acknowledging the fundamental right of Quebecers to determine their future pursuant to this Act.⁴⁰³

399. Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, delivered at the "Forum des Fédérations" held in Mont-Tremblant, October 6, 1999, p. 3 (quotation).

400. Speech by Lucien Bouchard at a debate on a motion proposing to reassert the liberty of Québec to determine its political status, Québec National Assembly, *Journal des débats*, May 22, 1996, p. 1244, 1245 and 1247 (quotation) [Translation].

401. Resolution of the Québec National Assembly dated May 22, 1996 (quotation; see part 3: document no. 32).

402. Press conference by Paul Bégin, Minister of Justice and Attorney General, September 26, 1996.

403. Unanimous resolution of the Québec National Assembly dated May 21, 1997 (quotation; see part 3: document no. 35).

382. While the decision of the Supreme Court of Canada, in the case of the federal government's reference to the Supreme Court of Canada on Québec's accession to sovereignty, to appoint an *amicus curiae* is a part of its powers, the person so appointed shall not have either the authority or the legitimacy to speak on behalf of the people or the government of Québec. The appointment of an *amicus curiae* does not in any way modify the position of the government of Québec by which Québec's accession to sovereignty is a political issue that is not a question to be decided by legal proceedings, but by the people of Québec.⁴⁰⁴

383. The federal government and the rest of Canada must [...] understand, regardless of any Reference:

- that the people of Québec have always possessed, now possess and will continue to possess the fundamental and inalienable right to freely, democratically and without interference dispose of their political future;
- that this fundamental right of the people of Québec is exercised within the framework of democratic institutions that belong to them and that are of a remarkable vitality;
- that these same institutions, including the democratic decision that the people of Québec will make during the next referendum must be respected; and,
- that the future and destiny of the people of Québec may not be subjugated to the will of the government

and federal parliament as well as to that of the other provinces. It is the responsibility of any democrat, and especially that of the government of Québec, to recall today at the beginning of this hearing, where the court has been proposed with the mandate to substitute itself in the rights of a people, these inalienable rights without which democracy cannot exist.⁴⁰⁵

384. The opinion handed down by the Supreme Court of Canada constitutes an important political event. The government of Québec, steadfast in its responsibility, has refused to participate in this episode of the federal political strategy and has firmly reiterated the right of Quebecers to choose their future. The Canadian government has failed in its attempt to have the core elements of its anti-sovereignty offensive validated. The opinion of the Court recognizes that a winning referendum would not only have democratic legitimacy, but that Canada would be obliged to recognize this legitimacy and could not deny the right of Québec to seek going through with such sovereignty. The opinion confirms that following a Yes, Canada would be obliged to negotiate with Québec. These negotiations would involve sovereignty and not a renewal of federalism. On the nature of the negotiations, the Court imposes obligations on the federalists to which sovereigntists have already adhered for some time. In the event of deadlocked negotiations, the Court does not dare give specific instructions but in broaching this subject, it does not in

404. Press conference by Paul Bégin, Minister of Justice and Attorney General, Sainte-Foy, May 9, 1997; position reiterated upon the designation of the *amicus curiae* (See the press release by Paul Bégin dated July 14, 1997).

405. Declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, at the beginning of hearings on the case of the Supreme Court Reference, February 16, 1998 (quotation) [Translation].

any case evoke the hypothesis that Quebecers should resign themselves to remain in Canada and renounce their democratic decision. On the contrary, the Court only evokes one possibility, it is that to break a deadlock Québec should alone declare its sovereignty and call upon international recognition. By evoking a recognition facilitated in the case of intransigence towards Québec, the Court provides a supplementary condition to the success of the negotiations. Finally, the Court does not in any way put in doubt the right of the Québec National Assembly to decide, alone, what the wording of the question and the majority threshold will be.⁴⁰⁶

385. Before, during and after [the episode of the federal reference to the Supreme Court of Canada] the government of Québec has always maintained that accession to sovereignty is an essentially political issue. Affirming this does not in any way mean putting oneself above the law. It is refusing to let Québec be subject to the interpretation that the federal government wishes to make of the role played by the Supreme Court of Canada and the rulings that it has made.⁴⁰⁷

*The federal Reference and Bill C-20:
See paragraphs 393, 395 and 398.*

386. The Québec government denounces the irresponsibility of people who resort to this partitionist rhetoric and, even more so, the irresponsibility of

federal ministers and politicians who present the dismemberment of Québec as both a possibility and a defensible demand and who thus offer a moral endorsement to those who propound these arguments. All democrats, federalists, and sovereigntists should clearly disassociate themselves from such talk. Québec's territorial integrity is guaranteed before the accession to sovereignty under the rules of the Canadian Constitution and, after sovereignty by the well-established and imperative principles of general international law. The Québec government thus condemns all attempts and invitations to deny or deform this reality for the purpose of creating polarization, sowing discord, and encouraging a degradation of relations between the various components of Québec society. Québec's borders are geographical and historical. Never will the government agree to their being redrawn on the basis of linguistic, racial, or ethnic considerations.⁴⁰⁸

Territorial Limits and Bill C-20: See paragraphs 397-398.

387. Does the document [Calgary Declaration] recognize the existence of the Québec people? In my view, here we touch upon one of the saddest facets of the history of relations between Quebecers and Canadians. When observers wonder a few years from now why these two peoples were unable to continue to live under the same federal regime, the answer will be,

406. Briefing notes for a preliminary statement by Lucien Bouchard following the Opinion of the Supreme Court of Canada on the federal government's Reference, August 21, 1998 (See part 2 of this document).

407. Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Droit, démocratie et souveraineté: Joseph Facal répond à Stéphane Dion," *La Presse*, November 17, 1999, p. B3 (quotation) [Translation].

408. Ministerial statement by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on the Québec government's position regarding Québec territorial integrity, Québec National Assembly, *Journal des débats*, November 12, 1997, p. 8379-8382 (See part 2 of this document).

above all, a lack of respect and recognition and the refusal of one of the two peoples to recognize the existence of the other. [...] They refuse to recognize us as a people or a nation and [...] even afraid of the vapid expression “distinct society,” the English-Canadian prime ministers have scraped the bottom of the barrel, where they undoubtedly found “unique character,” an all-purpose term if ever there was one.⁴⁰⁹

*The federal Resolution regarding the distinct society:
See paragraph 431.*

388. The Calgary Declaration runs [...] counter to Québec's interests. It consecrates the equality of the provinces in such manner as to deny Québec any possibility of renewed or asymmetric federalism or a special status for Québec. It denies the existence of the people of Québec in order to melt them into one Canadian reality in blatant contradiction with the pact between the two founding peoples.⁴¹⁰

*The Calgary Declaration and Social Union:
See paragraph 444.*

389. What [the Social Union Agreement] demonstrates is the inability of the federal government and the other provinces to reform the operations of the federal system by integrating and respecting Québec specificity. This agreement consecrates the emerging

vision of the rest of Canada united around a State that is less and less federal and more and more resolutely unitary. [...] The Social Union agreement directly questions Québec's status within Canada. The consecration without precedent of recognizing for the federal government a leadership role by the other provinces is totally contrary to the historic aspirations and claims of the people of Québec.⁴¹¹

390. The federal government is [...] seeking to give credence to the idea that at the time of the next referendum it is necessary to establish a majority threshold that is greater than that of the absolute majority of votes (50% + 1). [...] Canadian practice, international practice and the practice of the United Nations unanimously indicate that in the matter of referendums on accession to sovereignty, the absolute majority of votes, namely 50% + 1, expresses not only a clear majority but also a rule that must be recognized as being democratic, constant and universal.⁴¹²

391. [...] The introduction of a qualified majority, in whatever form, favours one option over the other and, above all, compromises the democratic principle of one elector, one vote.⁴¹³

392. Québec is a society whose democratic institutions are over two centuries old, where there is political pluralism and

409. Statement by Québec Prime Minister Lucien Bouchard following the Meeting of the First Ministers in Calgary, Québec, September 16, 1997 (quotation; see part 2 of this document). The Calgary Declaration is as such reproduced in part 3: document no. 36.

410. Speech by Lucien Bouchard at a meeting of the Commission permanente des institutions dealing with the Calgary Declaration, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, June 10, 1998, CI-136, p. 31 (quotation) [Translation].

411. Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of reviewing budgetary credits 1999-2000 of the Secrétariat aux affaires intergouvernementales canadiennes, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, April 28, 1999, CI-9, p. 3 (quotation) [Translation].

412. “Rules cannot be changed in the middle of the game,” conference by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, Forum des fédérations, Mont-Tremblant, October 6, 1999, p. 4 and 5 (quotation).

413. Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, “Facal répond à Dion (2): des demi-vérités sur la ‘majorité claire’,” *La Presse*, November 18, 1999, p. B3 (quotation) [Translation].

the fairness of the rules of the game (freedom of speech, financing of political parties, umbrella committees and financing of referendum options) is a fundamental value of the political process. The near *ex aequo* results of the 1995 referendum, the results somewhat more alike in the simultaneous referendums on the Charlottetown Accord and the results obtained in France—to include an international example—during the referendum on the Maastricht Agreement, where the majority was set at 51 % illustrate the ordinary and healthy proceedings of a democracy, in addition to illustrating three cases where the results, although quite tight, were nonetheless respected.⁴¹⁴

393. The federal Bill C-20 is a head-on collision with the democratic values that are dear to Quebecers. The federal government is seeking to impose a series of legislative padlocks to block the future of Quebecers. On the pretext of clarity, the federal government is acting as if it were seeking to give itself the means to evade the obligation of negotiating in good faith following a referendum favourable to sovereignty, as prescribed by the Supreme Court, advice the federal government itself sought. We subscribe to the obligation of clarity, but we maintain that it is a responsibility only the National Assembly can and must assume.⁴¹⁵

394. The federal bill proposes to bestow on the Canadian Parliament the right to declare the referendum question inadmissible while it is debated by the National Assembly. In fact, the federal government wants to be able to censure the question, even before the referendum. The Québec people—one of Canada's two founding peoples—would not have the right to propose, by referendum, to their Canadian neighbour a new political or economic arrangement based on the peoples' sovereignty and political equality. Québec would not have the right to propose to Canada an arrangement similar to the one linking the 15 countries of the European Union. In other words, according to the government of Canada, the National Assembly is not free to decide which project it would submit to a vote.⁴¹⁶

395. C-20 states that Quebecers must be protected against their government but also against themselves since they would be unable to weigh the issues set forth in a referendum question.⁴¹⁷ C-20 [...] is a dismal distortion of the Supreme Court's advisory reference and provides a legalistic veneer to the worst prejudices regarding the capacity of Quebecers to govern themselves democratically as a people.⁴¹⁸

396. Everybody knows that there is but one rule guaranteeing voting equality, it is the rule of 50 % plus one. Any

414. Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Facal répond à Dion (2): des demi-vérités sur la 'majorité claire'," *La Presse*, November 18, 1999, p. B3 (quotation) [Translation].

415. Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, at the time of the tabling of the Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, Québec National Assembly, December 15, 1999, p. 1.

416. *Ibid.*, p. 1-2.

417. "Who Feels Quebecers' Democratic Determination?," brief presented by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, before the Legislative Committee of the House of Commons entrusted with reviewing Bill C-20, Ottawa, February 24, 2000, p. 2 (quotation; see part 2 of this document).

418. Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Le déclin du fédéralisme canadien," *Le Devoir*, October 30, 2000, p. A7 (quotation) [Translation].

other rule would give the voters of one side more weight than those of the other side. In Bill C-20, the Canadian Parliament wants to reserve the right to set at its own discretion, once the results of the referendum are known, the majority level it deems sufficient. It thus assumes in effect a right of *veto*.⁴¹⁹

397. In the case where obstacles to Bill C-20 on the referendum question and the results would not prevent negotiations, the federal government has a third idea: putting in doubt Québec's territorial integrity, which every Québec government has deemed inviolable.⁴²⁰
398. Bill C-20 makes reference to the issue of borders while nowhere in the Supreme Court's opinion is there any mention of changing borders or only specifies, in mentioning borders, that it means nothing more than the changing of the current provincial borders into international ones.⁴²¹
399. Not only is Bill C-20 unacceptable for Québec, but it is also unacceptable for all parties represented in the National Assembly. The Québec government does not recognize any legitimacy on the part of the federal government when it comes to such interference in Quebecers' rights to decide for them-

selves what their future will be. The National Assembly will adopt the question it wants to adopt. The Québec people alone will decide what constitutes clarity. The victorious option will be the one with votes clearing the 50% + 1 of validly expressed ones.⁴²²

400. The Québec government considers that it is through a bill that the National Assembly must reply to Bill C-20. It must adopt a bill that protects the right of every citizen, of every one of us, to express our vote—only one vote, but a whole vote—to decide our future.⁴²³
401. The Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (Bill 99) is somewhat unique in character. For the first time in the political history of Québec, in fact for the first time since Québec has its own parliamentary institutions, namely for more than 200 years, a legislative text emanating from its institutions specifically aims at asserting some of the most fundamental rights and prerogatives of the people and State of Québec.⁴²⁴
402. In short, Bill 99 reiterates the political and legal principles that form the basis of Québec society and democracy.

419. Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, at the time of the tabling of the Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, Québec National Assembly, December 15, 1999, p. 2.

420. *Ibid.*

421. Press conference by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, regarding Bill 99, An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, December 15, 1999.

422. "Who Fears Quebecers' Democratic Determination?," brief presented by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, before the Legislative Committee of the House of Commons entrusted with reviewing Bill C-20, Ottawa, February 24, 2000, p. 4 (quotation; see part 2 of this document).

423. Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, at the time of the tabling of the Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, Québec National Assembly, December 15, 1999, p. 2.

424. Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of the debate on the adoption of the principle of Bill 99, Québec National Assembly, *Journal des débats* May 25, 2000, p. 6167. The Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State is reproduced in part 3: document no. 40.

It especially consecrates the fundamental right of Quebecers to freely dispose of their political future. It reasserts the sovereignty of the State of Québec in all its areas of jurisdiction, both domestically and internationally, as well as Québec's territorial integrity. It forcefully asserts that no other parliament or government may reduce the powers, authority or sovereignty and legitimacy of the National Assembly. It reiterates the principles underlying the Charter of the French Language. Lastly, it states that the rule of the majority of 50% + one vote validly cast, universally recognized and applied, is the one that will continue to prevail in interpreting the results of any referendum held under the Referendum Act through which the people of Québec will exercise their right to dispose of themselves. And the foregoing, it is appropriate to underscore, shall be carried out respectful of the established rights of the Québec English-Speaking Community and respectful of the existing rights of the eleven Aboriginal nations of Québec.⁴²⁵

403. The Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State is more than a mere statute; it is more of a charter of the political rights of the people of Québec.⁴²⁶

*The Status of a Federated Entity and Globalization:
See paragraph 425.*

••• **Constitutional reform process**

404. The government will not be associated with any future multilateral constitutional discussions, based on the lucid observation made by former Premier Robert Bourassa following the failure of the Meech Lake Accord according to which the existing constitutional reform process in Canada has been discredited.⁴²⁷

The 1982 Patriation: See paragraphs 405-406.

••• **Constitutional amending procedure**

405. The National Assembly adopted a resolution authorizing an amendment of section 93 of the Constitution Act 1867, in order to allow the implementation of linguistic school boards in Québec. As regards the amending formula, the resolution states that this amendment of the Constitution Act, 1867 does not in any way constitute a recognition by the National Assembly of the Constitution Act, 1982 that was adopted without its consent and states the engagements subscribed by the federal government to proceed rapidly with such amendment, through bilateral action and with the agreement of the National Assembly and of the Federal Parliament.⁴²⁸

*Amendment of section 93 of the Constitution Act, 1867:
See also paragraphs 417 and 450.*

406. By its heavy-handed tactics in 1982, Canada committed an historic injustice

425. Speech by Joseph Façal, Minister responsible for Canadian Intergovernmental Affairs, at the time of the debate on the adoption of the principle of Bill 99, Québec National Assembly, *Journal des débats* May 25, 2000, p. 6167. The Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State is reproduced in part 3: document no. 40 (quotation) [Translation].

426. Speech by Lucien Bouchard at the time of the debate on the adoption of the principle of Bill 99, Québec National Assembly, *Journal des débats*, December 7, 2000, p. 8577 (See part 2 of this document).

427. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087.

428. Unanimous resolution of the Québec National Assembly dated April 15, 1997 (Part 3: document no. 33).

to Québec. By allowing the 15-year deadline to lapse that it had set for changing its amendment formula, Canada admits that this injustice is irreparable within the federal system.⁴²⁹

••• **Distribution of powers**

a) General principles

407. The government has neither the intent nor the mandate to abandon any part of Québec's constitutional jurisdictions, whether this involves a constitutional or administrative operation.⁴³⁰

408. Successive governments in Québec, regardless of their political option, have always worked to reaffirm its jurisdiction in order to foster its people's control over its economic, social and cultural development and that of its political institutions.⁴³¹

409. The rest of Canada must realize that Québec intends to maintain the integrity of its jurisdictions and fiscal autonomy and that there is no doubt as to the determination of the Québec government on this issue. The agreement of a number or of all the provinces to the administrative restructuring that may result from any re-balancing exercise would not make this operation any less unacceptable for Québec, it being a restructuring that would purport to impose priorities or standards in sectors within Québec's exclusive jurisdiction and which would correspondingly reduce its political autonomy

within the federation. Québec will never compromise its autonomy by agreeing to principles that would weaken its jurisdiction and, in the eyes of the Québec people, would run counter to its interests and to the Constitution. What the federal government and the provinces are offering as a re-balancing of the federation is equivalent to a denial of the historic progress made by the Québec people.⁴³²

410. The imminent arrival of a budgetary surplus in Ottawa is already stirring up creative overlapping and duplicating federal interventionism. In such a context, the government of Québec will firmly defend its autonomy and prevalence over sectors under its jurisdiction. Consequently:

- [...] Québec shall demand respect for its constitutional jurisdictions and shall lay claim to the fullest exercising of them; it shall continue to denounce encroachments by the federal government and it shall demand full financial compensation in the form of tax points, especially within the framework of any new federal agreement or initiative in a sector coming under Québec's jurisdiction;
- [...] In the case of federal disengagement from other sectors, it shall demand, as the case may be, that the transferring of jurisdictions to Québec be accompanied with fair compensation.⁴³³

429. Ministerial declaration by Lucien Bouchard on the unacceptable character of the Constitution Act, 1982, Québec National Assembly, *Journal des débats*, April 16, 1997, p. 6267-6269 (quotation) [Translation]. See also the decision of the Conseil des ministres no. 97-092 on the fifteenth anniversary of the coming into force of the Constitution Act, 1982, April 16, 1997, reproduced in part 3: document no. 34.

430. Declaration by Lucien Bouchard, press release entitled: *The Re-Balancing of the Roles and Responsibilities of Ottawa and the Provinces: Another Road to Centralization*, Jasper, August 23, 1996 (quotation) [Translation].

431. Document *Administrative Re-Balancing of Roles and Responsibilities: Québec's Position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1 (quotation).

432. *Ibid.*, p. 1 (quotation).

433. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087.

411. Quebecers' feeling of alienation stems notably from the fact that the federal government acts as if the Canadian federation has become an almost unitary State. A federation represents a pact between a number of states that includes a clear division of responsibilities which each partner undertakes to observe. The federal government spends when and how it wishes, with its enormous surplus it has obtained, to a substantial degree, by making massive cuts in transfer payments to the provinces. In this way, the division of responsibilities among each partner seems to have lost all its meaning. In the sham federation Canada has become, the legitimate and original aspirations of Québec's people have been "flattened" by the federal steamroller and its propaganda machine.⁴³⁴

*Federal Principle and Globalization:
See paragraph 425.*

b) Sectorial jurisdictions

412. The 1996 Speech from the Throne announced a supposed federal withdrawal from various sectors: Forestry, mining, housing, recreation and tourism. Actually, after having intervened heavily in these areas, often counter to Quebecers' priorities and needs, but while using their tax money, Ottawa simply announces that it is disengaging itself financially or that at the end of existing agreements, it will have just about curtailed its contributions, but will keep Quebecers' money for its own purposes.⁴³⁵

Social Housing: See also paragraph 460.

413. Québec spends three billion dollars on childhood development programs and currently has put together a unified program. The acceptance of a Canada-wide integrated child allocation program would be tantamount to putting Quebecers' tax money into a general kitty and renouncing the granting of amounts required for Quebecers' needs and priorities.⁴³⁶

414. Québec is opposed to implementing any Canada-wide program under the social policies heading, such as a "national" benefit for children, the effect of which would be that Québec could not exercise all its responsibilities in this area. Social policies are its exclusive domain and it intends on exercising full powers in this matter within its territorial boundaries. As such, Québec sought the transfer of tax points or a financial transfer corresponding to the federal government's expenses in that sector in Québec and that it could have posted to the objectives pursued by the family policy announced last January. The federal government has made it known that it will not follow-up on this request.⁴³⁷

*Reforming Social Policies and the Social Union
Framework Agreement: See section c) ("unilateral
powers"), at paragraphs 435-448.*

415. Despite Québec's objections, the provinces of English Canada and the federal government have imposed on Québec standards for the "national" child benefit. At the same time, Québec is prevented from implementing its own parental insurance plan since the

434. Press release by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, Ottawa, December 8, 1999.

435. Press release by Lucien Bouchard, Federal-Provincial Conference, Ottawa, June 21, 1996, no. 1.

436. Declaration by Lucien Bouchard at the annual Conference of Provincial First Ministers, press release, *Social programs: Québec refuses the provinces' proposal to centralize Québec's powers in social affairs in Ottawa*, Jasper, August 23, 1996.

437. Press release by Pauline Marois, Minister of Education and Minister responsible for the Family and Childhood, Federal-Provincial Conference of Ministers responsible for Social Services, Toronto, April 18, 1997.

federal government has refused to fully withdraw from the space for contributions paid by employers and workers for maternity leaves within the employment insurance framework.⁴³⁸

National child benefit: See also paragraph 452.

416. While sharing the same concerns on early childhood development, Québec does not adhere to the document on early childhood development, released at the First Ministers' Meeting on September 11, 2000 because some of its sections infringe on its constitutional jurisdictions in social policies. Québec intends to preserve its sole responsibility for developing, planning, managing and delivering early childhood development programs. Consequently, Québec expects to receive its share of any additional federal funding for early childhood development programs without new conditions.⁴³⁹

417. The amendment of section 93 of the Constitution Act, 1867, consecrates Québec's exclusive power in education.⁴⁴⁰

*Amendment of section 93 of the Constitution Act, 1867:
See also paragraphs 405 and 450.*

418. University teaching and research are Québec jurisdictions. As such, there can be no question of having a foundation set up by the federal government making strategic choices instead of Québec with regard to areas to be favoured in research. The government of Québec therefore demands that the Canada Foundation for Innovation

reserve for Québec its share and that it pay such amount in full to Québec. Requests from universities, as well as those from affiliate university research centres and institutes, will be processed by currently existing project selection mechanisms within the Québec government and on the basis of development priorities in the health care and education sectors. Universities, as well as affiliate university research centres and institutes, will not be able to deal directly with the Foundation to avoid having projects arriving in a disorderly fashion without taking Québec priorities in health care and education into consideration. This procedure enables Québec to reassert the exercising of its right in the areas of jurisdiction that belong to it exclusively, namely in health care and education, while respecting its priorities in research and development and doing justice to the potential for excellence and creativity found in the Québec scientific community.⁴⁴¹

Research and development: See also paragraph 461.

419. Following the announcement of the creation of the Canada Millennium Scholarship Foundation, the Québec government stated its objection to this federal initiative and announced its intention to withdraw from the upcoming program with full compensation.⁴⁴² On March 30, 1998, Québec proposed to amend the federal bill instituting the Foundation to integrate

438. Document *Canadian Social Union: Québec's position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1-2.

439. Communiqué on early childhood development, Meeting of First Ministers, Ottawa, September 11, 2000.

440. Press release by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, Québec, December 19, 1997. See also the unanimous resolution of the Québec National Assembly dated April 15, 1997, authorizing the constitutional amendment (Part 3: document no. 33).

441. Press release by Pauline Marois, Minister of Education, and Jean Rochon, Minister of Health and Social Services, Québec, December 8, 1997.

442. Letter from Lucien Bouchard to Jean Chrétien, Prime Minister of Canada, February 17, 1998, referring to a letter dated December 5, 1997.

into it an opting-out right with compensation for provinces that have built and administer a student financial assistance program to ensure them equal opportunities regarding post-secondary education.⁴⁴³

420. That, for the benefit of Québec students, the National Assembly urgently ask the federal government and the Québec government to resume the negotiations regarding the millennium scholarship in order that an agreement on legislative amendments respecting the following principles may be reached:

- a) The part granted each year to Québec students is determined by means of a formula based on demographic parameters;
- b) Québec selects the students who shall receive a scholarship;
- c) The scholarships are forwarded to the recipients in such manner so as to avoid all duplication and to ensure the necessary visibility to the federal government.

Furthermore, the National Assembly acknowledges the Québec government's intention to allocate the amounts thus saved in its scholarship programme to the funding of colleges and universities.⁴⁴⁴

Millennium Scholarships: See also paragraph 448.

421. Under the Canada-Québec Labour Market Development Agreement in Principle, Québec accepts responsibility for the planning, design, delivery

and evaluation of active employment measures financed by the Employment Insurance Account. In addition, Québec accepts primary responsibility for job placement and information on the Québec labour market. The agreement reached between Québec and the federal government was concluded after more than thirty years of requests that culminated in tight negotiations begun in December 1995. The Agreement is an important step in recovering full power over labour force issues and makes it possible to begin eliminating the overlapping of employment policies in Québec.⁴⁴⁵

422. Québec agrees with the health care communiqué released at the First Ministers' Meeting on September 11, 2000. It specifies that nothing in the communiqué will be interpreted so as to derogate from the respective governments' jurisdictions. The components of this communiqué, namely the vision, principles, action plan for health system renewal, clear accountability and working together shall be interpreted in full respect of each government's jurisdictions.⁴⁴⁶

423. Québec has always stood firm on exercising its jurisdictions in fiscal policy and the collection of revenues. In this context, federal agency formulas pertaining to revenue and border services could not be applied to Québec.⁴⁴⁷

Tax collection: See also paragraph 458.

443. Québec government proposal to amend Bill C-36, Ottawa, March 30, 1998.

444. Unanimous resolution of the Québec National Assembly dated May 14, 1998 (quotation). An administrative agreement was concluded with the Canada Millennium Scholarship Foundation and the ministère de l'Éducation du Québec in December 1999.

445. Press release by Lucien Bouchard, Montréal, April 21, 1997.

446. Health care communiqué released at the First Ministers' Meeting, Ottawa, September 11, 2000.

447. Letter from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance, Québec, February 26, 1997.

424.[...] Whereas above and beyond its jurisdictions in matters of education, language, culture and identity, the Gouvernement du Québec is the sole interlocutor competent to directly and appropriately represent the reality and interests of the Québec people; [...]

The Gouvernement du Québec declares:

- That in all international forums dealing with education, language, culture and identity, it is fundamental that the Gouvernement du Québec speak in its own voice on behalf of the Québec people;
- That the Gouvernement du Québec therefore intends to participate directly in these forums, to encourage the holding of them and to favour their organization and action;
- That for the purposes of participating in certain international organizations to which Canada is the statutorily accredited State, the Gouvernement du Québec intends to initiate negotiations with the federal government in order to reach agreement on the terms and conditions of its presence and the exercise of its freedom of speech.⁴⁴⁸

425.If the federal principle is to be preserved in the context of globalization, the federated entities would have to have control over their own international relations for all issues related to their exclusive internal jurisdiction, and conversely the federal governments would have to agree to limit their

interventions to exchanges concerned solely with matters under their own jurisdiction. It is therefore clear that if we are unable to leave room for the federated entities on the international stage, and continue to reserve it exclusively for fully sovereign States, the federated entities that have the means to do so will naturally seek a change in their status, driven by the need to ensure that their communities are able to develop their full potential. This temptation will be all the greater since globalization has the effect of reducing one of the gains of the federal system, namely the maintenance and protection of a common economic space. Given that this gain could henceforth depend increasingly on the international order, many federated entities may find that they are no longer satisfied with their current political arrangements.⁴⁴⁹

426.The recognition of cultural duality means for Québec where over 85 % of Canada's French-Speaking population lives, that its government would be entrusted with exclusive powers in cultural affairs with full financial compensation.⁴⁵⁰

427.Québec is firmly opposed to any proposal seeking to question Québec's and the provinces' recognized jurisdiction in securities and to thereby allow the federal government to interfere in the securities sector, whether directly or indirectly.⁴⁵¹

428.That the National Assembly clearly affirm Québec's wish to continue,

448. Declaration of the Gouvernement du Québec respecting Québec's participation in international forums dealing with education, language, culture and identity, Québec, March 24, 1999 (quotation; see part 3: document no. 39).

449. *Globalization, the Federative Deficit and the Case of Québec*, speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, delivered on the Occasion of the XVIIIth World Congress of the International Political Science Association, Québec, August 3, 2000, p. 5-6 (quotation; see part 2 of this document).

450. Letter from Louise Beaudoin, Minister of Culture and Communications and Minister responsible for the Charter of the French Language, to Sheila Copps, federal Deputy Prime Minister and Minister of Canadian Heritage, Québec, January 16, 1997.

451. Letter from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance, Québec, March 7, 1996.

with the other provinces, the harmonization process with regard to securities, which is in conformity with the objective of preserving the Canadian economic space, and that it request that the federal government abandon its plan to create a National Securities Committee, which constitutes interference in a provincial area of jurisdiction.⁴⁵²

429. In the area of banking reform, the government of Québec asks the federal government not to provoke inefficiency in Québec consumer protection by introducing costly duplications of surveillance structures and recourse, as well as the confusion, even overlaps, in the regulating of financial markets.⁴⁵³

430. Federal Bill C-54 on the Personal Information Protection and Electronic Documents Act in the private sector constitutes both a significant step backwards for Quebecers as regards the protection of personal information and an unacceptable intrusion in an area of jurisdiction belonging to Québec. By extending the scope of the bill to virtually all businesses, the federal government has opened the door to expensive and heavy duplication for citizens and probably, in the end, to constitutional disputes.⁴⁵⁴

431. Federal Bill C-54 jeopardizes certain civil law principles that govern Québec society. The government of Québec has always considered the resolution

adopted by the House of Commons after the 1995 referendum on the distinct society to be trivial and of no effect. Nonetheless, since this is a federal policy, coherence would imply the pure and simple withdrawal of Bill C-54 or, failing this, substantial amendments to exclude Québec from its field of application.⁴⁵⁵

432. The federal Personal Information Protection and Electronic Documents Act in the private sector touches upon issues of civil law that come under the jurisdiction of Québec and for which Québec fully assumes its responsibility. The federal statute establishes a two-fold legal system, applying concurrently, which will uselessly complicate matters for consumers and businesses, besides creating an unthinkable mess. Moreover, part 2 of the federal statute pertaining to signatures and electronic documents adopts an approach contrary to that of Québec, which currently sets the necessary legislative parameters needed for establishing the legal stability of E-trade transactions.⁴⁵⁶

433. In the field of consumer protection rights, Québec intends on pursuing its joint efforts with Canadian provinces, but it is opposed to any federal determination to define a national standard in such fields. Québec fully accepts its jurisdiction in the field of consumerism.⁴⁵⁷

434. The government of Québec refuses to sign the Canada-wide Accord on Envi-

452. Unanimous resolution of the Québec National Assembly dated June 4, 1996 (quotation). This resolution was referred to in the letter dated February 13, 1997 from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance.

453. Letter from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance, Québec, June 10, 1999.

454. Declarations by André Boisclair, Minister of Relations with Citizens and Immigration, and Louise Beaudoin, Minister of Culture and Communications, press release, Montréal, November 20, 1998.

455. Letter from Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, to Stéphane Dion, federal Minister of Intergovernmental Affairs and President of the Privy Council, Québec, April 28, 1999.

456. Declarations by Robert Perreault, Minister of Relations with Citizens and Immigration, and David Cliche, Minister Responsible for the Information Highway, press release, Québec, October 28, 1999.

457. Declarations by Robert Perreault, Minister of Relations with Citizens and Immigration, press release, Federal-Provincial Conference of Ministers responsible for Consumerism, Banff, November 19, 1999.

ronmental Harmonization and related Sub-agreements of the Canadian Council of Ministers of the Environment until the conditions set by Québec are respected by the government of Canada. These prior conditions demanded by Québec include recognition of the exclusive or prevailing jurisdictions assigned to it under the Constitution, a firm commitment on the part of the federal government to Québec specifying the legislative amendments to federal statutes required for harmonizing purposes will effectively be adopted and, finally, the reaching of a bilateral agreement with the federal government pertaining to environmental assessments.⁴⁵⁸

c) Unilateral powers

435. Ottawa claims that from now on it wants to limit [its spending power], but Ottawa's commitment is revocable, conditional and does nothing to solve current problems. Ottawa reserves the right to impose on Québec financial or normative constraints if the federal government reaches an agreement with the majority of the provinces to implement new shared-cost programs. Ottawa keeps its discretionary power to act unilaterally in any of Québec's exclusive powers while also maintaining its capacity to set at will the compensation to be paid to Québec. Above all, one sees the confirmation of all past intrusions in the fields of education, health, social services and income security. The government of Québec

prefers asking Ottawa to unconditionally transfer its fair share of taxes that Quebecers send to Ottawa so that Québec may of its own accord invest them in its areas of exclusive powers.⁴⁵⁹

436. Québec [...] cannot nor does it want to be associated with the federal-provincial process [relating to social policy reform and renewal] because of the two pernicious effects it will have: first, that of limiting the exercising of its exclusive powers regarding health, education and income security to the benefit of the federal government; second, this will make it inevitable that some portion of Quebecers' taxes will serve as a tool for imposing on them policies that do not answer their needs and perpetuate overlapping and waste.⁴⁶⁰

437. Most recommendations from the report of the Intergovernmental Ministerial Council on Social Policy Renewal—a council with which Québec has not associated itself—seek to standardize social policy Canada-wide and thereby offers the federal government an opportunity to legitimize the enhanced role—which has no constitutional basis—that it wishes to have. Québec cannot commit itself to an intergovernmental decision-making processes whose effect will be to subject it to standards to which Québec has not consented in areas belonging to its jurisdiction.⁴⁶¹

438. The Québec government condemns the proposals on social policy reform

458. Press release by Paul Bégin, Minister of the Environment and Wildlife, at the meeting in St. John's (Newfoundland) of the Canadian Council of Ministers of Environment, January 29, 1998.

459. Press release by Lucien Bouchard, Federal-Provincial Meeting of First Ministers, Ottawa, June 21, 1996, N° 1 (quotation) [Translation].

460. Press release by Lucien Bouchard, Federal-Provincial Meeting of First Ministers, Ottawa, June 21, 1996, N° 2 (quotation) [Translation].

461. Declaration by Lucien Bouchard at the annual Conference of Provincial First Ministers, press release entitled *Social programs: Québec refuses the provinces' proposal to centralize Québec's powers in social affairs in Ottawa* Jasper, August 23, 1996.

under which Québec would be invited to give up the authority it has always claimed to set its own priorities and allocate the power available to the specific needs of Quebecers.⁴⁶² The government of Québec remains the most suited government for answering the specific needs of Quebecers.⁴⁶³ The Québec government is the best positioned government to meet the specific needs of Quebecers.

439. An intergovernmental mechanism to formulate national standards for social programs. Such a mechanism is consistent with a view of the federal system shared by many provinces in English Canada. Québec's view in this matter is profoundly different, but just as legitimate. On one side, the vision of English Canada attributes to the federal government responsibilities in the definition of social policies regardless of the provisions of the Constitution. On the other, the vision of Québec claims historically that its exclusive jurisdiction be recognized and reaffirms its determination to maintain sole control over its social program priorities and policy directions within its territory. With this mechanism, Québec is being asked to relinquish its jurisdiction and hand over choices and policy directions for social programs to an intergovernmental body in which it will necessarily be in a minority situation.⁴⁶⁴

440. Québec is quite prepared to share its social policy experience and to conclude reciprocity agreements with interested

provinces to ensure the accessibility and portability of social program benefits.⁴⁶⁵

441. The government of Québec is prepared to participate in talks dealing with the establishment of an umbrella agreement on the management of the social union and the monitoring of "federal spending power," provided that all participating governments adhere to the following:

- 1) The participants must express an interest in the recognition of a province's unconditional right to withdraw with full compensation in respect of any measure or matter likely to affect an area of provincial jurisdiction and agree that the definition of this of withdrawal right will be a key objective of talks on the umbrella agreement.
- 2) During discussions on such an umbrella agreement, all participants, including the federal government, must agree to a moratorium on any new federal government initiative or measure likely to affect an area of provincial jurisdiction. Consequently, the participants agree, in a non-restrictive manner, that any discussion or implementation of such initiatives or measures will be postponed until the conclusion of talks on the framework agreement.
- 3) The Québec proposal must in no way be interpreted as direct or indirect recognition of federal spending power or any federal role whatsoever in the realm of social policy.

462. Document entitled *Administrative Re-Balancing of Roles and Responsibilities: Québec's Position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1 (quotation).

463. Document *Canadian Social Union: Québec's position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1 (quotation).

464. *Ibid.*, p. 1-3 (quotation).

465. *Ibid.*, p. 3 (quotation).

Moreover, Québec reaffirms its historic position concerning respect for its fields of jurisdiction.⁴⁶⁶

442. The primary concern of the provinces, both with regard to the ministerial council's talks on social policy renewal as the current negotiations on the proposed framework agreement on the social union, resides essentially in their determination to shelter themselves from unilateral federalism through which Ottawa has massively disengaged itself from the financing of social programs. Québec shares this concern with the provinces as regards the stability and continuity of federal commitments to financing social programs. Nonetheless, Québec's concern extends far beyond with regard to federal spending power. Québec considers that the development, planning and management of social programs is its sole responsibility. Not only does the Constitution recognize its exclusive power in this matter, but moreover, the Québec government is the one closest to Quebecers and the one most suited for respecting their aspirations and answering their needs and priorities. This is why Québec has always demanded its withdrawal with full fiscal or financial compensation from any federal government initiative financed by its spending power. Québec considers that it must be the sole master over social policy initiatives that it defines on the basis of its way of doing things and its specific reality.⁴⁶⁷

443. The guarantee of a right to opt out with full financial compensation is a condition that cannot be ignored for Québec to participate in negotiations relating to a future social union project.⁴⁶⁸

444. Not recognizing Québec's right to opt out with full financial compensation from any federal initiative in social policy means refusing to clearly recognize Québec's specific reality, its distinct character and it confirms that the recognition of Québec's uniqueness in character set forth in the Calgary Declaration is merely symbolic.⁴⁶⁹

445. On August 6, 1998 in Saskatoon, the Québec government joined in negotiations relating to the social union framework agreement. The Premiers recognized the essential dimension of the provincial/territorial consensus negotiating position as regards the ability of a province or a territory to opt out of any new or modified Canada-wide social program in areas of provincial/territorial jurisdiction with full compensation, provided that the province or the territory carries on a program or initiative that addresses the priority areas of the Canada-wide program.⁴⁷⁰

446. In August of last year, in Saskatoon, the Government of Québec agreed to support a common claim devised by the other provinces of Canada and the basic objective of which was to limit the federal government's spending

466. Press release by Lucien Bouchard, Conference of First Ministers, Ottawa, December 12, 1997.

467. Speech by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, regarding Québec's position on the issue of the federal spending power within the scope of discussions on the social union framework agreement, Federal-Provincial Meeting of Ministers responsible for the Social Union Framework Agreement, Toronto, April 17, 1998, p.1 (quotation) [Translation].

468. *Ibid.*, p. 3 (quotation) [Translation].

469. *Ibid.* (quotation) [Translation].

470. Communiqué entitled *The Canadian Social Union Framework Agreement*, 39th Annual Conference of Provincial First Ministers, Saskatoon, August 6, 1998. The interprovincial consensus was reaffirmed on January 29, 1999 in Victoria.

power, one of the most serious deviations of our recent history. [...] The proposal of the provinces succeeded in reconciling the interests of several English-Speaking provinces and those of Québec. Indeed, the Saskatoon consensus allows the English-Speaking provinces, if they so desire, to accept the federal presence and to collaborate with it. Moreover, this consensus allows other provinces which, like Québec, wish to retain their jurisdictions and autonomy, to exercise their right to opt out with full compensation of any federal initiative in these fields.⁴⁷¹

447. The government of Québec refused to sign the Social Union Framework Agreement that was reached on February 4, 1999 between the federal government and the provinces.⁴⁷²

448. Why did we say no [to the Social Union Agreement]? Well, essentially because the Social Union Agreement does not confer upon Québec any true opting-out right with full compensation as regards any new Canada-wide social initiative to which we would prefer our own initiative or action, as for instance, the \$5 per day nurseries. Québec also refused this agreement because it does not in any way prevent a repetition of the Millennium Scholarship unilateral scenario. This agreement, in fact, legitimizes Ottawa's recourse to direct transfers to individuals or organizations when it is unable to obtain support from a majority of provinces for the implementation of some new

Canada-wide social initiative. Québec said no to the agreement because we cannot accept having a new Canada-wide social initiative in our fields of jurisdiction that is imposed on us by a federal government that would see its legitimacy—in appearance—backed by six provinces hardly representing 15% of Canada's population. It must also be stated that the opting-out right provided under the agreement is only applicable to new shared-cost programs [...], it is still highly conditional upon achieving all the Canada-wide objectives as well as respecting the accountability conditions set by Ottawa. The only federal obligation is limited in such cases to a prior notice to the provinces [that] does not entail any obligation of result. What's more, as regards mobility this agreement contains clauses likely to directly impact Québec policy on differential school fees for students from outside Québec, including the compulsory residential period as a criteria for eligibility under the loans and bursary program, as well as the qualification system in the construction sector. So for all of these reasons and because, generally speaking, this Social Union Agreement has a direct impact upon Québec's constitutional responsibilities regarding the development, planning and management of social programs that answer the needs of our population, we have chosen not to sign.⁴⁷³

*The Social Union Framework Agreement and
the Status of Québec: See paragraph 389.*

471. Declaration by Lucien Bouchard on the Social Union, January 27, 1999, p. 1 (quotation).

472. *A Framework to Improve the Social Union for Canadians*, February 4, 1999. This agreement, which Québec did not sign, is reproduced in part 3: document no. 38.

473. Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of reviewing budgetary credits 1999-2000 of the Secrétariat aux affaires intergouvernementales canadiennes, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, April 28, 1999, CI-9, p. 3.

••• **Language rights**

449. The government of Québec solemnly reaffirms its commitment to preserve the rights of the English-Speaking Community now and in a sovereign Québec. Administration of their schools, colleges and universities; access to courts and the government in English; access to social and health care services in their language; public radio and television broadcasting services in English.⁴⁷⁴

450. By authorizing the amendment to section 93 of the Constitution Act, 1867 allowing the establishment of linguistic school boards, the National Assembly reaffirmed the established rights of the Québec English-Speaking Community. More specifically, Quebecers whose children are admissible in accordance with Chapter VIII of the Charter of the French Language have the right to have them receive their instruction in English language educational facilities under the management and control of this community, as provided by law, and which are financed through public funds.⁴⁷⁵

Established rights of the Québec English-Speaking Community: See also paragraph 402.

••• **Institutions**

451. That the National Assembly express the wish that the office of Lieutenant Governor be abolished; nevertheless, given that the provisions of the Constitutional Act imposed upon Québec render impossible the abolition of this

office at the current time, the National Assembly requests that the federal government henceforth appoint as titular of the office of Lieutenant Governor the public figure democratically designated by the Assembly.⁴⁷⁶

452. Centralizing federal interventions are expressed in [...] intergovernmental forums. The discussions in these forums —as seen in the social policies case— often acts as a powerful accelerator of federal government initiatives in areas that are not under its jurisdiction. In these forums, one must also note the fact that Québec's positions are not taken into account has become a Canadian habit. The case of the so-called “national” benefit for children imposed on Québec in 1996 constitutes tangible evidence of this trend. It is, however, of fundamental importance that the government of Québec make known its positions regarding these intergovernmental forums and then closely follow their evolution.⁴⁷⁷

••• **Intergovernmental policy**

a) Conducting intergovernmental relations

453. Québec cannot commit itself to a re-balancing process whose general orientations and specific measures lead to the abandoning of Québec's basic claims and the gradual erosion of these claims via administrative intergovernmental means.⁴⁷⁸

454. Québec reaffirms its intention to continue, outside the on-going re-balancing

474. *Living together before, during and after the referendum*, Notes for a speech by Lucien Bouchard before the English-Speaking Community of Québec, Montréal, March 11, 1996, p. 7.

475. Unanimous resolution of the Québec National Assembly dated April 15, 1997, (Part 3: document no. 33).

476. Resolution of the Québec National Assembly dated November 20, 1996 (quotation).

477. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087 (quotation) [Translation].

478. Declaration by Lucien Bouchard, press release entitled: *The Re-Balancing of the Roles and Responsibilities of Ottawa and the Provinces: Another Road to Centralization*, Jasper, August 23, 1996 (quotation) [Translation].

exercise and on a bilateral basis, its discussion with the federal government in basic areas of practical importance to Quebecers. These discussions will focus on putting an end to Ottawa's intrusions in Québec's domains of responsibility and on ensuring that any transfer of federal measures and programs is matched by the corresponding budgets in tax points. [...] In the general spirit of partnership that it wishes to maintain and further develop with Canada, Québec will continue its discussions with the provinces, particularly on issues affecting employment and the economy, notably the implementation of the Agreement on Internal Trade, to strengthen the economic space that it shares with them.⁴⁷⁹

455. Faced with the federal government's strategy, which on the one hand seeks to deny the existence of the people of Québec, capable and free to decide on their political future, and on the other, it behaves as if Canada were a unitary State, thus denying both the spirit and the letter of the Canadian Constitution, the government of Québec makes public the orientations in Canadian intergovernmental relations that will guide the Québec government's actions.⁴⁸⁰

b) *Financial aspects of federalism*

456. [...] As long as it is part of the federation, Québec will continue to demand that the federal government withdraw

from social program funding and vacate the tax space in which it collects taxes from Québec taxpayers for purposes that fall within Québec's exclusive jurisdiction.⁴⁸¹

Tax points transfer:
See also paragraphs 410, 414, 435 and 442.

Federal disengagement from the financing of social programs: See paragraphs 411 and 442.

457. The government of Québec shall actively participate in intergovernmental discussions on issues involving the revision of financial arrangements within the federation. Within the framework of these discussions, the government's objective shall not only be to preserve, but also to increase Québec's fiscal autonomy.⁴⁸²

Fiscal autonomy: See also paragraph 409.

458. Considering specifically that the ministère du Revenu du Québec is already the sole tax collector in Québec; considering the genuine advantages for our governments and citizens that result from this unified administration; considering that the ministère du Revenu du Québec already administers a tax system in Québec; considering that this system is already largely harmonized with the federal system and considering, lastly, this wish that citizens may only have one collector of taxes; It appears to the government

479. Document entitled *Administrative Re-Balancing of Roles and Responsibilities: Québec's Position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 3 (quotation).

480. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087-9088. Guidelines made public on this occasion are reproduced in part 3: document no. 37.

481. Document entitled *Canadian Social Union: Québec's position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 3 (quotation).

482. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9088 (quotation) [Translation].

of Québec that the taxation model it has developed with the federal government could be advantageously extended to corporate and individual taxes thereby making the ministère du Revenu du Québec the only tax collector in Québec.⁴⁸³

*Canada Customs and Revenue Agency:
See paragraph 423.*

459. Considering the compensation paid to the Atlantic provinces within the context of harmonizing the federal tax on goods and services, Québec deems it is entitled to receive compensation from the federal government since Québec by itself and without financial assistance, proceeded with the harmonization of its sales tax system with that of the federal tax system.⁴⁸⁴

460. Québec is prepared to accept a transfer of all federal responsibilities regarding housing, provided that this be accompanied with satisfactory financial compensation in light of criteria of fairness, sufficiency and continuity. Currently, Ottawa's proposal is limited to offering Québec only the administration of existing federal obligations with regard to social housing stock, which only amounts to a simple management contract. In addition, on the subject of social housing, Québec has not obtained its fair share of federal expenditures; the government cannot accept this situation, no more than prior administrations were able to tolerate this. Were we to be

satisfied with less than our share of financing of the federal effort for housing, this would be all the more unacceptable since Québec needs in this area are proportionately greater than those of the other provinces.⁴⁸⁵

461. The economic and financial policies of the federal government constitute an enormous burden for Québec. In this respect, Québec speaks out against the small share of federal development expenses made in Québec, plus the weak federal contribution to research and development in Québec, a core sector in an increasingly knowledge-based economy.⁴⁸⁶

c) Aboriginal Nations

462. The government of Québec has adopted new guidelines regarding aboriginal affairs that are consistent with earlier political steps, namely, the 1985 National Assembly resolution and the fifteen principles adopted by the government in 1983. The primary objectives of these orientations are to develop harmonious relations based on confidence and mutual respect between Aboriginal Peoples and non-aboriginals, to increase the self-government and fiscal autonomy of Aboriginal Peoples. The approach proposed by the government seeks the making of agreements favouring responsibility and development with aboriginal communities and the implementation of measures

483. Letter from Rita Dionne-Marsolais, Minister of Revenue, to Herb Dhaliwal, federal Minister of National Revenue, Sainte-Foy, April 3, 1998. The position was reiterated in the letter dated June 30, 1999 from Bernard Landry, Deputy Prime Minister, Minister of State for the Economy and Finance and Minister of Revenue, addressed to Herb Dhaliwal.

484. Declarations by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, and Jacques Brassard, Minister of Transportation, Minister responsible for Canadian Intergovernmental Affairs, Press release, Québec, May 21, 1996; see also the press release by Bernard Landry and Jacques Brassard dated December 13, 1996.

485. Declarations by Rémy Trudel, Minister of Municipal Affairs and Minister Responsible for Housing, and Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, press release, December 16, 1997; letter from Rémy Trudel to Alfonso Gagliano, federal Minister responsible for the Canada Mortgage and Housing Corporation, Québec, January 8, 1998.

486. Press release by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, Ottawa, December 8, 1999.

for creating more favourable conditions for the development of the economy and employment among Aboriginal Peoples.⁴⁸⁷

*The Rights of Québec's Aboriginal Nations:
See paragraph 402.*

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

463. The government of Québec reiterates its commitment of solidarity with the French-Speaking and Acadian Communities of Canada. For many years now Québec has understood that this commitment regarding the French language within its territory obviously cannot be dissociated from a commitment of solidarity with the International Francophone Community, but even more so with regard to French-Speaking and Acadian Communities.⁴⁸⁸

e) Trade

464. Since Québec is resolutely committed to the opening of markets, to the greatest possible elimination of barriers, to the fluidity of commercial exchanging of goods, services and capital, and the free movement of people both internationally as within a present and future framework of partnership with the other governments of Canada, the

government of Québec wants to be a highly active stakeholder in the Agreement on Internal Trade.⁴⁸⁹

465. The government intends to work towards the reinforcement of the Québec-Canada economic space by pursuing efforts for implementing the Agreement on Internal Trade (AIT) while privileging the making of bilateral economic agreements such as those entered into with Ontario and New Brunswick.⁴⁹⁰

*Common economic space:
See also paragraphs 425, 428 and 454.*

*f) Criminal justice
system for young persons*

466. The government of Québec maintains that the federal reform of the criminal justice system for young persons is neither necessary nor justified and that it runs the risk of endangering the rehabilitation model that Québec has set up. Québec requests the federal government that it may keep the current system provided under the Young Offenders Act.⁴⁹¹

467. The National Assembly asks the Federal Minister of Justice to suspend the passage of Bill C-3 [on criminal justice for young persons] in order to

487. *Partnership, Development, Achievement. Aboriginal Affairs: Québec Government Guidelines*, 1998; Press release by Guy Chevrette, Minister of State for Natural resources, Minister for the Regions and Minister responsible for Aboriginal Affairs, Québec, April 2, 1998.

488. Declarations by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, made on the occasion of the 1997 Forum francophone de concertation, Press release, Québec, March 14, 1997.

489. Speech by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, at the time of reviewing budgetary credits 1996-1997 of the Secrétariat aux affaires intergouvernementales canadiennes, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, April 30, 1996, CI-10, p. 3 (quotation) [Translation].

490. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9088 (quotation) [Translation].

491. Letter from Linda Goupil, Minister of Justice and Attorney General, to Anne McLellan, federal Minister of Justice and Attorney General for Canada, Sainte-Foy, May 3, 1999.

allow her to make a better assessment of the implementation by the provinces of the measures provided for in the Young Offenders Act and to ensure that Québec maintain its intervention strategy, which is based on the needs of young people and which favours prevention and rehabilitation.⁴⁹²

492. Unanimous resolution of the Québec National Assembly dated December 1, 1999 (quotation).