Preliminary statement by Lucien Bouchard, Prime Minister of Québec, the day following the Opinion of the Supreme Court of Canada on the federal government's Reference concerning Québec's accession to sovereignty, Québec, August 21, 1998.

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[Translation]

An important political event took place yesterday, the effects of which we have not yet finished assessing.

With the scarcely concealed aim of raising fear among Quebecers, the federal government unilaterally asked nine judges of its own Supreme Court, nine persons whose federalist faith is not in doubt, to pronounce themselves on the Canadian federalist arguments.

The Québec government, in keeping with its responsibility, refused to participate in this episode of the federal political strategy, and firmly reiterated that only the citizens of Québec have the right to choose their future, as has moreover been stated by all parties represented in the National Assembly.

Yesterday's event thus embodied the Canadian government's attempt to have its own Court and its own judges validate the central elements of its Plan B, its anti-sovereignist offensive.

What happened was the reverse: the Court demonstrated that Ottawa's arguments do not stand up to analysis, and it struck at the very heart of the traditional federalist discourse.

Overall, the federalists have been telling us for the past two years that sovereignty is a legal issue that comes within the realm of law and the court system. The federal judges contradicted them. After having answered the reductionist questions asked by the federal government, in a perfectly foreseen and predictable manner, the Court affirmed, from one end of its opinion to the other, the political nature of the process that would legitimately be set in motion by a Québec referendum on sovereignty.

Allow me to peruse, one by one, the federalist myths that were buried yesterday by the federal judges.

First myth: for decades, a certain number of federalists have contended that the sovereignist project is not legitimate.

The judges of the Supreme Court stated the contrary, and I quote them: "A clear majority vote in Quebec on a clear question in favour of secession **would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize**." End quote.

They go even further to state, and again I quote: "The other provinces and the federal government would have no basis to deny the **right** of the government of Quebec **to pursue secession**." End quote.

The federal judges thus upheld what sovereignists have been saying for 30 years: not only will a winning referendum have democratic legitimacy, but also Canada will have the obligation to recognize this legitimacy, and will not be able to deny Québec the right to achieve sovereignty.

Second myth: in 1980 and in 1995, the federalists claimed that if the citizens of Québec said Yes, Canada would refuse to negotiate with the Government of Québec. It will be recalled that in 1980, Mr. Pierre Trudeau compared the will of Quebecers to negotiate to that of a third-world country that Ottawa would not have to take into account. Again in 1995, the federalist advocates ridiculed the hand held out by the sovereignists for a negotiation after a Yes vote.

On October 12, 1995, Mr. Jean Chrétien made the following statement: "there is a myth that must be destroyed, he said, to

the effect that there is someone in Canada who is authorized to negotiate" with Québec. The current leader of the Liberal Party of Québec also made a few unfortunate statements on this subject.

Yesterday, unanimously, the federal judges brought to an end what had constituted the most fallacious argument of the federalist camp. The federal judges stated and restated that after a Yes vote, Canada would have the obligation to negotiate with Québec. They even make this a constitutional obligation.

Allow me to quote a passage which reads as follows: "The clear repudiation by the people of Quebec of the existing constitutional order would confer legitimacy on demands for secession, and **place an obligation on the other provinces and the federal government to acknowledge and respect that expression of democratic will by entering into negotiations** [...]." End quote.

The federal judges therefore upheld what sovereignists have been saying for 30 years: after a Yes vote, there will be negotiations. At the time of the last referendum, we repeated this in all forums. Such was our conviction. Today it is a certainty, particularly considering that the representatives of the federal government admitted, yesterday, that they would act in accordance with the order that they themselves received from their Court.

In 1995, we played by the rules; we developed our negotiating position—the offer of partnership. We created an orientation and supervision committee for the negotiations. I even seem to recall that we appointed a chief negotiator.

The No side, for its part, wanted to raise fear among Quebecers. The next time, the men and women of Québec will be able to vote Yes with the certainty that negotiations will take place and that everything will be set in motion for an orderly transition toward sovereignty, in the respect of the rights of each of our citizens, as we have always stated.

This element of good sense, I am profoundly convinced, now confers a considerable advantage upon the sovereignist project and constitutes one of the winning conditions of which I have been speaking for several years.

Third myth: the nature of the negotiations. Certain federalists have claimed that if negotiations ended up taking place after a Yes vote, they would deal not with sovereignty, but with a renewal of federalism.

Yesterday, the Court closed this avenue with a double lock. It stipulated, and I quote, that "the negotiations [...] **would address the potential act of secession as well as its possible terms** should in fact secession proceed." The federal judges mentioned several elements that will have to be covered during these negotiations.

They recall, as we so often have, that Québec and its neighbours share, and I quote, "a national economy and a national debt." End quote. They also underline that the interests of Canada and of the provinces will have to be addressed in these negotiations. We have always said, and continue to think, that the economic interest of Canada, of the provinces, of the economy and of the debt must lead us to come to an agreement on a partnership that will preserve the common economic space between the two sovereign States.

The Court speaks of the necessary protection of the rights of minorities and states that it is necessary to take into account the interests of the aboriginal peoples. This is also our position, and this is why, in the Act respecting the future of Québec, we made the following commitment: "The new constitution (of a sovereign Québec) shall guarantee the English–speaking community that its identity and

institutions will be preserved. It shall also recognize the right of the aboriginal nations to self-government on lands over which they have full ownership and their right to participate in the development of Québec; in addition, the existing constitutional rights of the aboriginal nations shall be recognized in the constitution." End quote.

Québec has always been at the forefront, within Canada, in recognizing the rights of aboriginal peoples, particularly since the resolution presented by René Lévesque in 1984 recognizing, for the first time in Canada, the existence of the aboriginal nations of Québec.

In short, on the nature of the negotiations that will follow a Yes vote in a referendum, the Court imposes upon the federalist camp obligations that the sovereignists had long since assumed.

Fourth myth: according to the federalists, after a Yes vote, in the event of a deadlock in the negotiations, the citizens of Québec would be prisoners within Canada; that they cannot get out.

I would like to say, first of all, that we have no doubt that after a Yes vote, the political and economic situation will oblige Québec and Canada not only to negotiate, but also to quickly come to an agreement on sovereignty and on the conditions of economic partnership.

However, at least theoretically, the question must be asked of what would happen in the event of a deadlock in the negotiations. On this, the Supreme Court dares not provide a precise set of directions, but when it raises this eventuality, it in no event raises the hypothesis according to which Quebecers would have to resign themselves to remaining in Canada, and to renouncing their democratic decision. On the contrary, the Court raises only a single eventuality, namely that in which, in order to break the deadlock, Québec alone would declare its sovereignty and call for international recognition.

Indeed, the Court writes that Québec's behaviour and that of Canada during the negotiation will be, and I quote, "evaluated [...] on the international plane." And the Court is categorical in adding, and again I quote, that "**a Quebec that had negotiated in conformity with constitutional principles and values in the face of unreasonable intransigence on the part of other participants at the federal or provincial level would be more likely to be recognized [...].**"

Moreover, the Court sets out in black and white, as we ourselves have stated since the deliberations of the Bélanger-Campeau Commission, and I quote, "**It is true that international law may well, depending on the circumstances, adapt to recognize a political and/or factual reality, regardless of the legality of the steps leading to its creation**." Further, the Court again affirms, and again I quote, "It may be that a unilateral secession by Quebec would eventually be accorded legal status by Canada and other states [...]."

Hence, the sovereignists and the Bélanger-Campeau Commission state the truth: in the event of a deadlock in negotiations, "it is true" that international law may recognize Québec's decision. Indeed, the Court sends a signal to the international community, indicating to it that after a Yes vote, if Canada and the provinces were to prove intransigent toward Québec, then Québec's recognition would thereby be facilitated. Thus the Court has just given us one of the supplementary conditions for the success of the negotiations.

The fifth and final federalist myth that was buried yesterday deals with the wording of the question and with the majority. Since the last referendum, a number of federalists have stated that the federal government should be involved in the drafting and in the approval of the question, or in the setting of a new threshold for the majority.

Yesterday, the Court in no way called into question the right of the National Assembly alone to decide on the wording of the question and on the threshold of the majority. The consensus within Québec on this point is as clear as it is unshakable. Moreover, Plan B had the effect of consolidating the agreement between the political parties in Québec on these points, as has been reiterated since yesterday by the leaders of the two opposition parties of the National Assembly.

The court limits itself to stating that the political authorities will make a political judgement on the clarity of the question. This is what elected officials do on a daily basis on all issues.

Our position on this is known: the 1995 question was so clear that 94% of Quebecers, a record of participation, went to the polls to vote on this capital issue; the question was so clear that the Prime Minister of Canada, in a speech to the nation, warned voters that the referendum vote meant "remaining or no longer being Canadian, staying in or leaving, that is the issue of the referendum."

Concerning the majority, the Court judges, as do we, that it must be clear. But it describes this clarity using the word "qualitative," rather than the word "quantitative." I quote the Court, when it writes "we refer to a 'clear' majority as a qualitative evaluation." Thus it does not call into question the *quantity* of votes required to declare a victory for the Yes side. The judges are familiar with the precedents in Canadian history, particularly that of Newfoundland, which entered Canada with a 52% majority. Any juridical or political statement to the effect that a result of 50% + 1 was not sufficient would call into question the validity of the Newfoundland vote.

The reality is that the federalists learned yesterday from the Supreme Court that the clear, reasonable and logical process proposed to the citizens of Québec by the sovereignists is legitimate and that they will have to negotiate its implementation after a winning referendum.

The Court thereby shakes the foundations of the federalist strategy, and undermines the arguments of fear and of the refusal to negotiate.

Taken by itself, the obligation placed on Canada to negotiate with Québec dissipates the uncertainty that caused the refusal of the federalists to negotiate to weigh in the minds of many Quebecers. Today these Quebecers find reassurance: their Yes will force Canada to negotiate.

More and more of the men and women of Québec will conclude that the time will soon come to decide, once and for all, to bring to an end our unsolvable quarrels with Canada, to build here the country of Québec, and to negotiate, with our neighbours, a mutually beneficial relationship between equals.

Thank you.

Source: Notes for a preliminary statement.