FROM AN ECONOMIC AND POLITICAL PARTNERSHIP BETWEEN QUÉBEC AND CANADA TO A CANADIAN UNION

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On October 30, 1995, Quebecers did not take the other decisive step towards sovereignty. The Canadian federation experienced, however, a very dramatic event as the people of Québec rejected by a narrow margin of 1.16% a proposal authorizing the National Assembly to proclaim the sovereignty of Québec and to propose a formal economic and political partnership with Canada. Whereas 93.52% of Quebecers cast their vote on October 30th and 91.80% cast Yes or No votes¹ — a level of participation unseen in democratic jurisdictions of the world — 49.42% voted Yes and 50.58% voted No, a difference of barely 54,288 votes.

These results showed a significant increase in the support for sovereignty for Québec when compared to the analogous results of the referendum held on May 20, 1980 on sovereignty-association.² And whereas this latter proposal did not authorize the National Assembly of Québec to proclaim sovereignty and provided for another referendum before sovereignty could be achieved, the 1995 referendum would have led, according to the terms of the Prime Minister of Canada Jean Chrétien, to a final and irrevocable decision of Quebecers to sever links with Canada. Although the same Prime Minister suggested that Quebecers did not understand the real meaning of the 1995 referendum question and that the leaders of the sovereignty movement were attempting to fool them, Quebecers weighed heavily their decision and came very close indeed to accepting a proposal that would have brought an end to the federal experience in which they have participated since 1867.

Since October 30th, there has been once again an attempt to propose changes to the Canadian federal system and to show that federalism should continue to receive the support of Quebecers. Although the Prime Minister of Canada was reluctant to envisage any significant reform of the federal system (especially if it took a constitutional route) since elected in

1993, he was forced to commit himself to make changes to the federation at the very end of the 1995 referendum campaign. Thus, on November 27, 1995, the Prime Minister tabled a resolution before the federal Parliament recognizing, in a very limited context, Québec as a distinct society,³ as well as draft bills lending the federal government's veto to six provinces or regions of Canada, including Québec,⁴ and devolving, in appearance more than in reality, the jurisdiction over manpower and training to the provinces. These proposals have come under heavy criticism within the House of Commons, the provincial governments and legislatures and, as one might expect, in Québec as well.

Quebecers do not consider these proposals satisfactory⁵ and the Bloc Québécois, the Parti Québécois and the Action démocratique du Québec have rejected them as insufficient measures to deal with the fundamental claims of Québec. The federal government is presently working on an additional package of proposed reforms to the federal system: the Prime Minister of Canada has recently shuffled his cabinet in order to improve the national unity capacity of his government, and has said he is devising a comprehensive and new plan for Canada.⁶

Whatever stems from these proposals for federal reform, sovereignty and partnership still remain a competing choice for Quebecers. The government of Québec, led by the former leader of the Bloc Québécois, Lucien Bouchard, since January 29, 1996, will most probably call another referendum in the near future on the political status of Québec — once again the sovereignty and partnership proposal will be on the ballot. For many Quebecers, this proposal remains a valid and credible alternative to Canadian federalism.

While the sovereignty proposal continues to lead the thrust for change, Quebecers clearly want to ensure a considerable measure of continuity in their relationship with Canada. Although some simply will claim that it is only in proposing such ties that the sovereignist dream could come true one day and that leaders of the movement are only giving credit to the idea of partnership for strategic purposes, many promoters of sovereignty have an authentic, and in many cases, an emotional attachment to Canada.

This emotional attachment stems from the sharing of a common history and destiny with the other peoples of Canada, 128 years of federal experience, as well as from the fact that networks of personal, professional and political links have been woven by the citizens of Québec and Canada. Quebecers can remind other Canadians that their ancestors were the first to identify themselves as "Canadiens," that the Canadian experience is also their experience, nurtured through their leaders, and that they have a great deal of commitment to the economic, social and cultural success of such an experience.

In that respect, one has to be reminded that the concept of sovereignty has evolved considerably and can accommodate itself with the creation, or in the case at hand, the maintenance of links with other sovereign states. For historical reasons, but also for motives linked with the contemporary trends in favour of economic, and even political, association, sovereignty-seeking peoples have not refused to consider the prospect of exercising some jurisdiction in common with other states. Quebecers have come up with innovative proposals to bind, albeit in a different frame, their future with other Canadians and have recently given a new meaning to the notion of association with Canada by proposing to establish an economic and political partnership.

This proposal is thus motivated, to some extent — some would say to a great extent — for reasons of the heart, but a heart that does work independently from the mind. This mind has come to realize increasingly that the Canadian experience was not able to meet the Québec challenge and that it should be replaced by a new framework, one of economic partnership (I) but also of political partnership (II).

THE DESIRABLE ECONOMIC PARTNERSHIP

Since the creation of the contemporary sovereignty movement, economic association with Canada has been an integral part of the sovereignist discourse. A reading of the founding manifesto of the Parti Québécois is very instructive in that regard and shows the importance of the association leitmotif in this discourse.⁷ This fundamental component of the sovereignist political project is not seen as being in contradiction with sovereignty. It is, on the contrary, something that sovereignty can render possible, as has been proven with the experience of the European Communities — oft-cited in the original literature of the sovereignist movement⁸.

Underlying this proposal for association is the fact that economic interdependence has gained so much ground and that economic actors have long decided to associate themselves in the pursuit of their own legitimate interests, that states should not themselves shy away from associationist ventures. The multiplication of free-trade zones, customs unions, common markets and economic and monetary unions since 1947 has proven that states are willing to enter into economic partnerships and take measures that limit their sovereignty, but conversely enhance their economic well-being and that of their peoples.

In the particular case of Québec and Canada, there are compelling reasons to opt for the maintenance of an economic association. These reasons were clearly stated in the 1980 white paper on sovereignty-association, but the more recent statement of the Bélanger-Campeau Commission deserves particular attention. Based on several working documents that showed the intricate and important exchanges in goods and services between Québec and the rest of Canada, and the intimate relationship of their financial systems, the Bélanger-Campeau Commission strongly supported the maintenance of economic links with Canada and argued in the following terms: 10

Relations between societies are also of other types, particularly economic. Québec, like Canada, as a whole, has an open economy fully integrated into the main world trends, especially North American currents. The close economic interdependence which characterizes Canada indicates that the reciprocal benefits of ensuring the free movement of persons, goods, services, and capital are advantageous to everyone concerned and should, as far as possible, be maintained, regardless of the political and constitutional status Québec adopts. Moreover, Québec is not calling into question economic and financial commitments and ties it has established with its Canadian and foreign partners.

This idea of economic association was indirectly mentioned in An Act Regarding the Process of Determining the Political and Constitutional Future of Québec, 11 and was given a more direct place in the Draft Bill: An Act Respecting the Sovereignty of Québec. 12 The Draft Bill was not very explicit, however, on the nature of the economic association sought with Canada and referred to an "agreement the purpose of which is to maintain an economic association."13 It did not present the institutional framework of such an association and thus left many questions unresolved. This explains that a great deal of the discussion at the regional and national commissions on the political future of Québec were devoted to the provision of economic association and that several recommendations were formulated to give more clout to that specific article.14

This also led to what has become known, in Ouébec political circles, as the "virage," a proposal put forward by the Bloc Québécois leader Lucien Bouchard, inviting the government to place more importance on the relationship with Canada within the sovereignist project. This "virage" was followed by an extensive study of a Bloc Québécois Working Group that I had the privilege to chair, 15 and that showed why the maintenance of an economic association between Canada and a sovereign Québec was desirable. A close examination of the economic data revealed, among other things, that more than 60 billion dollars were exchanged in trade and services between Canada and Québec and that half a million jobs depended on such trade. The economy of Ontario was largely dependent on Québec as a trading partner: at least 250,000 Ontarian jobs, as well as a trade surplus of 2.4 billion dollars, could be in jeopardy if an economic association was not maintained after Québec's accession to sovereignty.¹⁶

Although the leader of the Parti Québécois and Prime Minister, Jacques Parizeau, was somewhat reluctant to reintroduce economic association as a major component of the sovereignty political platform, he did participate in negotiations and contributed to the adoption on June 12, 1995 of the Agreement between the Parti Québécois, the Bloc Québécois and the Action démocratique du Québec. 17 This agreement, which later was incorporated in Bill 1: An Act Respecting the Future of Québec, 18 gave a new emphasis and a prominent place to a proposal for economic and political partnership. Invoking the volume of trade between Québec and Canada as well as the extent of their economic integration, the Tripartite Agreement clearly opted for a partnership that would take the form of an economic and monetary union. The Partnership would thus have authority to act in the areas of customs union, free movement of goods, individuals, services and capital, as well as in matters of monetary policy and labour mobility. Furthermore, agreements in other matters of an economic nature could be negotiated, in areas such as international trade, transportation, financial institutions, and fiscal and budgetary policies.

This proposal clearly was made to assure continuity in the trade relations between Québec and Canada. This component of the sovereignists' agenda for continuity was not left unattacked by the opponents of sovereignty, notably during the 1995 referendum campaign. But, in large, most economic actors realized that it was in every party's interest to maintain the Canadian economic space and to not upset the patterns of trade between Québec and Canada. Polls continue to reveal that, on the one hand, a majority of Canadians themselves are willing to negotiate a treaty for economic association with a sovereign Québec¹⁹ and, on the other hand, that Quebecers believe that Canada will agree to negotiate a partner-ship in case they decided to opt for sovereignty. ²⁰

The sovereignist forces also went beyond a proposal of economic partnership and included in their offer elements of political partnership aimed at ensuring a certain degree of political continuity in the Québec-Canada relationship.

THE INITIAL POLITICAL PARTNERSHIP

For some sovereignists, the issue of political partnership raised the fear of a return to the federal model and the difficulties that such a model would perpetuate. This explains the reluctance of some sovereignist spokespersons to include in the partnership proposal elements of a political in nature.²¹ Yet, the integration into the sovereignist camp of the Action démocratique du Québec, formed of dissident members of the Liberal Party of Québec and very soft sovereignists, entailed adding such a feature to the project.²² Hence, an initial political partnership was incorporated into the Tripartite Agreement — and subsequently in Bill 1 - in order to obtain the continued support of the Action démocratique du Québec in the government's drive toward sovereignty.

This was made possible through the brokerage of the Bloc Québécois which had shown some willingness in recent history to go beyond a merely econ-

omic association.23 The Tripartite Agreement itself suggested that the Partnership treaty would create joint "political" institutions required to administer the new economic and political partnership. Those institutions are sketched in the agreement and consist of four bodies: a Council made up of an equal number of ministers from the two states, which would have a decision-making power with regard to the implementation of the Treaty; a Permanent Secretariat that would mainly provide operational liaison between the Council and the governments; a Parliamentary Assembly, made up of Ouébec and Canadian Members appointed by their respective legislative assemblies, and given the responsibility to forward recommendations concerning draft decisions of the Council; and a Tribunal, which would resolve disputes relating to the interpretation and implementation of the treaty.

When reasoning in terms of political partnership, one looks mainly at the legitimacy granted to the persons appointed to institutions. In the case of the members of the Council, their legitimacy would be indirect, based on the fact that they are part of a government formed on the basis of the popular support of the people. The same can be said of the members of the Parliamentary Assembly who would derive their legitimacy from their electoral mandate. The Tripartite Agreement does not provide for the election by universal suffrage of the members of the Parliamentary Assembly, as is the case for the European Parliament — the preferred option of the Action démocratique du Québec. The members of the Council would not, in their case, be confirmed by the Parliamentary Assembly, in the way the members of the European Commission are by the European Parliament as a result of the Maastricht Treaty. In as much as there are political actors sitting on these bodies, they might be referred to as political institutions, but their political legitimacy is only indirect. Some politicians and commentators have argued that such indirect legitimacy is not sufficient in the context of an economic and monetary union, and that a union of such a magnitude requires an elected body to prevent any democratic deficit²⁴.

In looking at the list of areas where jurisdiction is given to the Partnership or other areas of common interest that could can give rise to agreement between the state parties, one can also sense the will to initiate a political partnership as well. The best example of this will is the reference to citizenship, which is one of the areas the Partnership will be authorized to consider a priority. Although it is difficult to assess the real meaning of this reference to citizenship, it

could entail the existence of a citizenship of the Partnership (analogous to the citizenship of the European Union), or setting out rules to determine the rights and obligations for those people who retain their respective citizenships of Québec and Canada. Other examples of political partnership are in the areas of international representation where there is a potential role for political representation of the state parties by the Partnership, or in the area of defense policy where joint participation in peace-keeping operations or a coordinated participation in NATO and NORAD is envisaged.

The matters that could be qualified as political are thus few — this suggests a reluctance to enter into a more ambitious political partnership. If the making of a political union is rather difficult in an aggregate process, such as that underway within the European Union, this difficulty can also be understood in the context of the disaggregation of a state and the unwillingness of the seceding entity to rebuild a political union which has justified, to some extent, its drive toward sovereignty. It is thus understandable, for example, that one rejects a proposal to elect the members of a Parliamentary Assembly through universal suffrage and to give such an assembly legislative power when the cause of many of Québec's past grievances is its minority status within the House of Commons and the abuse of legislative power by the Canadian Parliament as a whole.

Here, the proposal for political partnership reaches its limits. If the economic partnership is desirable — that it makes sense to maintain the free flow of goods, services, capital and persons — the political partnership proposal deserves to be initially modest in its outlook. But for many Ouebecers, a limited form of political partnership is also desirable and could lead progressively into more advanced forms of political union. One can point to the experience of European integration to show that political union needs time to emerge and that it can only be accomplished at a progressive and slow pace. This could also be the case of Québec and Canada, if the latter showed some willingness to enter into negotiations to rebuild, not only on economic grounds, but on some modest political basis, a partnership with Ouébec.

CONCLUSION

For many Quebecers, a majority I now believe, Canadian federalism has reached the limits of its potentialities. The 1995 referendum has probably created un point de non-retour, which will most probably be confirmed by the inability of the rest of Canada to offer a valid federalist counter-proposal to Ouébec before the 1997 constitutional conference. Some structural impediments are entrenched in the federal body politic, such as the notion of equality of provinces, making it impossible to accommodate Québec's past and present demands for more powers within the confines of the federal system. Although one can acknowledge the existence of some enlightened proposals for reforming federalism in Canada, such as proposals of binational²⁵ or partnership federalism, 26 these proposals seem to be nonstarters in political circles in the rest of Canada. Confronted with the status quo, or an unsatisfactory proposal of renewed federalism, Quebecers will not hesitate to choose the path of sovereignty and partnership next time around. A Léger & Léger poll, conducted February 15-19, 1996, reveals that the sovereignty and partnership proposal would have obtained the support of 54.3% of Québec voters.²⁷

In a sense, Quebecers might have resisted the temptation to vote Yes on October 30th 1995 because they wanted the rest-of-Canada to get ready for a serious and meaningful negotiation regarding the proposal of economic and political partnership put forward by the government of Québec at the request of the Québec people. It is my wish, and the wish of many Quebecers, that the governments of Canada, and their leaders, follow such a path and look at the partnership proposal with an open mind and a critical eye, ²⁸ and that negotiations be held on those foundations even before a new referendum is called by the government of Québec.²⁹

Such a path would be much more healthy than a discourse using threats to the economic stability of Québec or its territorial integrity³⁰ and which puts emphasis on the illegality of Québec's eventual accession to sovereignty or the need for a higher vote hurdle.³¹ Sovereignists do not want to destroy and break-up Canada, as their political opponents often put it. Their intention is to invent a new country with its own distinctiveness and ambitions to live their national aspirations. Yet, Quebecers are also committed to building new bridges with a neighbour, a country with which it would like to enter into a friendly, peaceful, and novel form of Union,³² which could be labelled, for the sake of history and continuity, as a new Canadian Union.³³

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This paper is written in my capacity of professor and does not engage the institutions in which I have a political or professional affiliation.

Endnotes

- The total number of votes casted was of 4,757,509. 2,308,360 voted Yes, 2,362,648 voted No and 85,501 (1.2%) spoiled their ballot.
- In 1980, the Yes vote was 40.44% (1,485,851) and the No vote 59.56% (2,187,991), a difference of 19.12% (702,230). 85.61% of voters took part in the 1980 referendim
- 3. This resolution was adopted by the House of Commons of Canada by 148 to 91, the members of the Liberal Party voting in favor of the resolution and the members of the Bloc Québécois and the Reform Party voting against: see G. Gauthier, "La motion sur la société distincte est adoptée: bloquistes et réformistes s'y opposent pour des motifs contraires; Charest s'absente" La Presse (12 December 1995) B1.
- 4. See An Act respecting Constitutional amendments, Bill C-110, First Session, Thirty-fifth Parliament 42-43-44 Elizabeth II, 1994-95. This Bill was adopted by the House of Commons and the Senate and was given royal assent on February 2, 1996. Some constitutional lawyers have argued that this Bill is unconstitutional: see M. Campbell, "Legality of Regional Veto Law questioned by experts" The Globe and Mail (3 February 1996) A5. See also, in a more political tone, F.L. Morton, "Why Chrétien's Proposal won't wash in the West" The Globe and Mail (30 November 1995) A21.
- An SOM-La Presse-Radio-Québec poll taken between the 1st and 5th of December showed that 53% of Quebecers considered these proposals insufficient and 24% sufficient, whereas 23% did not answer: see M. Fontaine, "Les Québécois ne sont pas satisfaits des propositions du gouvernement Chrétien" *La Presse* (8 December 1995) B1.
- 6. It seemed, however, that the federal cabinet was preparing two plans: the plan on terms of reconciliation and the plan on terms of secession, to use the words of the new minister for Intergovernmental Affairs Stéphane Dion. But Prime Minister Chrétien appears to have denied the existence of these two plans: see S. Delecourt, "Chrétien steps back from unity issue Prime Minister refocussing on economy as constitutional veto passes, Parliament prorogues" The Globe and Mail (3 February 1996) A1 and A4.
- See René Lévesque, Option-Québec (Montréal: Les Éditions de L'Homme, 1968) at 48-64.
- See D. Turp, "L'influence du modèle commununautaire européen sur les projets d'association et de partenariat du Québec avec le Canada" in Actes du Colloque sur l'Union européenne dans le contexte de la Conférence intergouvernemetale de 1996 (à paraître).
- Gouvernement du Québec, Proposition du gouvernement du Québec pour une entente d'égal à égal: la souverainetéassociation (Québec: Conseil exécutif, 1980).
- 10. See Commission on the Political and Constitutional Future of Québec, The Political and Constitutional Future of Québec: Report (Québec, 1991) at 72 [hereinafter the Bélanger-Campeau Report]. This Commission had been created by An Act Respecting the Commission on the

Political and Constitutional Future of Québec, S.Q. 1990, c. 34.

- 11. S.Q. 1991, c. 34 [hereinafter Bill 150].
- 12. First Session, Thirty-fifth Legislature, tabled by Mr. Jacques Parizeau, Prime Minister, Québec Official Publisher (hereinafter the Draft Bill), art. 2. For a detailed analysis of this Draft Bill, see D. Turp, L'Avant-projet de loi sur la souveraineté du Québec: texte annoté (Montréal: Les Éditions Yvon Blais, 1995) (hereinafter L'Avant-projet annoté) and J. Brossard and D. Turp, L'accession à la souveraineté et le cas du Québec (Montréal: P.U.M, 1995) 797-850. See also, for a comment of a political nature, D. Turp, "A Democratic Process for a Fundamental Choice: The Draft Bill on Sovereignty and Québec's Political Future" (1995) 3:4 Canada Watch 45, 47 and 48, art. 2.

For a summary of those recommendations, see L'Avant-Projet annoté at 27-29.

- 13. Ibid., art. 2.
- 14. For a summary of those recommendations, see L'Avant-Projet annoté at 27-29.
- Bloc Québécois Working Group on Economic Union and Common Institutions, Sovereignty and Interdependence — Harmonizing the Essential with the Inevitable — A Proposal for an Economic and Political Partnership between Québec and Canada (June 8th 1995) 29.
- 16. Ibid., at 11.
- 17. The text of this Agreement is contained in the schedule of Bill 1 An Act Respecting the Future of Québec, infra, note 18 [hereinafter the Tripartite Agreement]. See on this agreement D. Turp, "The June 12 Agreement: A Common Project for Québec's Future" (1995) 3:7 Canada Watch 1-3 and D. Turp, "PQ-BQ-ADQ Une entente ni superficielle ni dysfonctionnelle: c'est le fédéralisme du statu quo qui souffre de ces défauts" Le Devoir (18 September 1995) A7
- 18. First Session, Thirty-fifth Legislature, introduced by Mr Jacques Parizeau, Prime Minister [hereinafter the *Bill on the Future of Québec or Bill 1*].
- For an in-depth analysis of these polls, see P. Martin, "Association after Sovereignty? Canadian Views on Economic Association with a Sovereign Québec" (1995) XXI:1 Canadian Public Policy 53 and ff,
- 20. In a CROP-TVA—La Presse—The Toronto Star poll taken from September 7th to 12th, 46% of Quebecers believed that Canada would accept to negotiate a new partnership with Québec, 39% did not believe so and 15% had no answer: see M. Fontaine, "Le Canada acceptera de négocier avec un oui mais l'échéancier d'un an semble bien téméraire aux yeux d'une majorité de Québécois" La Presse (1 October 1995) A4.
- See on this issue the comment of S. Dion, "Union politique: Jacques Parizeau a raison ... ét tort en même temps" La Presse (13 April 1995) B3.
- 22. The position of the Action démocratique du Québec on political union can be found in two documents: Action Démocratique du Québec, Partenaires d'une nouvelle Union Québec-Canada, 6 p. and Action Démocratique du Québec, La nouvelle Union Québec-Canada: Institutions et principes de fonctionnement (5 May 1995) 29.

- 23. See Bloc Québécois, *Un nouveau parti pour l'étape décisive* (Montréal: Fides, 1992) 85-99 and 119.
- 24. See for example R. Bourassa, L'union monétaire et l'union politique sont indissociables Parti liberal du Québec-textes référendaires nº 10, avril 1980. See also for an analysis of these arguments and others R. Young, The Secession of Québec and the Future of Canada (Montréal and Kingston: McGill-Queen's University Press, 1995) 60-74.
- See P. Resnick, Toward a Québec-Canada Union (Montreal: McGill-Queen's University Press, 1991).
- 26. See A. Burelle, Le mal canadien: essai de diagnostic et essai d'une thérapie (Montréal: Fides, 1995).
- 27. See R. Mackie, "Poll finds Quebecers proud of Canada Responses show support for sovereignty based on rejection of existing federal system" The Globe and Mail (24 February 1996) A5. It is also interesting to note that, according to two researchers of the Université de Montréal, the simple aging of the population will create a natural majority favorable to independence by the end of the century: see J. Gray, "Yes support will expand as voters age, study says Research rejects idea that Québeckers become more cautious" The Globe and Mail (17 November 1995) A3.
- See D. Turp, "Post-Referendum Reflections: Sovereignty is Alive and Well, Partnership Remains the Roadmap to the Future" 4:2 Canada Watch 17, 42 and 43.
- 29. See the remarks to that effect made by the vice-prime minister of Québec and minister of International Affairs Bernard Landry: R. Séguin, "Amicable Split-up Possible: Landry-Québec minister eyes Czech model" *The Globe and Mail* (16 January 1996) A1 and A4.
- See Tu Thanh Ha, "Partition talk gives Québec a jolt English propose, French oppose" The Globe and Mail (5 February 1996) A1 and A4.
- 31. See R. Howard, "Slim vote can't split Canada, PM says Liberals Discuss raising hurdle" The Globe and Mail (31 January 1996) A1 and A5. However, as the newly appointed Prime Minister of Québec Lucien Bouchard argued: "Quebecers will rally against federal 'provocation and scare-mongering tactics' on the issue of how much support is needed to take Québec out of Canada." See R. Séguin, "Ottawa tactics will backfire, Bouchard says Premier predicts Quebecers will unite to support separation in face of 'provocation and scare-mongering'" The Globe and Mail (31 January 1996) A10.
- 32. See on a proposal for a novel form of Union, D. Turp, "Québec and Canada's Future after the Charlottetown Accord Referendum: Genuine Sovereignties within a Novel Union" (1993) 4 Constitutional Forum 47-49; (1993) XVI The Canadian Law Newsletter 41-45.
- 33. See in that respect the Draft Treaty creating a Canadian Union (Projet de Traité instituant l'Union canadienne) which I presented to the Bélanger-Campeau Commission and that I revised and published in L'Avant-projet annoté at 155-176. This concept of a Canadian Union has recently been given a political stamp of approval by the same Bernard Landry, recently appointed minister of State for Economy and Finances of Québec: see R. Séguin, "Québec calls for talks on a 'Canadian Union' Two-nation Partnership terms to be sought before a vote" The Globe and Mail (1 February 1996) A1 and A8...