c.c.: Hon. M. Lalonde
Hon. M. Reid
Mr. Pitfield
Mr. Coutts
Mr. Carter
Miss Macdonald

f

Secret

April 30th, 1979.

MEMORANDUM FOR THE PRIME MINISTER

Considerations relating to the specific constitutional program

In the course of the last few weeks I have had a good deal of discussion in the FPRO, especially with Frank Carter, about the details of the constitutional program that you have in mind for the immediate post-election period. When I returned to the office this morning, Frank Carter had a memorandum waiting for me that I think you ought to see. It gives some careful and serious reflections about considerations that could affect precisely what you say about the proposed constitutional program and how you say it. A copy of the memorandum is attached.

Most of the memorandum is a matter of judgment and opinion. I would differ with Carter on a few points but; in general, I either agree with him or think his views are sufficiently well taken that they merit very careful weighing. There are just two points on which I might comment specifically:

A. "Some federal proposals touching Quebec" (page 7)

I think Carter's worry is a valid one - that our constitutional discussions on the "first and second lists" will not appear to be very much of substance for Quebec. If he is right that the prospect of possible action for "patriation" against the opposition of Quebec - and possibly of some other provinces - will be adversely received in Quebec, even with an entrenched Charter including linguistic rights, then it might indeed be wise to consider whether something could be said in general terms that will be seen as a recognition of something special for Quebec. (The entrenched Charter and linguistic rights will not be seen as anything for Quebec - indeed it may be interpreted as something against Quebec - however much it is desirable for French-speaking Canadians in other provinces.)

Clearly it is not desirable to raise any suggestions of "special status" in the sense of constitutional powers. I can see no strong reason, however, why you might not recognize that Quebec is, in fact, "different" in being the "foyer" of French Canada and of extending a willingness to work out some "special role" of cooperation with the federal government on matters of special concern to French Canada. It would clearly be a mistake to attempt to give any detail to such an idea since anything that was spelled out would become the object of attack. The general proposition would, however, be taken as an indication on your part that you do recognize a "difference" while still remaining determined to have no distinction among the provinces in terms of constitutional powers.

B. "The question of timing" (page 8)

In your statement you will want to outline your program with a good deal of detail and precision. Without that, there is no way of getting the kind of mandate that would permit you to break out of the impasse that is imposed by "unanimity". The question Carter addresses at the end of the memorandum is how much to say about the precise timing. I think there is a good deal of force in the argument that it might be very unwise to commit yourself firmly at this time to moving a Joint Address in the course of the summer. (This does not mean that you might not later decide that you would, in fact, want to proceed with the Address in the summer: it is simply a matter of not being committed to it this far in advance.)

Apart from the specific concerns to which Carter refers, I think there could be some advantage in not giving the government of Quebec the comfort of knowing just when you might move on the Joint Address. If you commit yourself firmly at this time, it will make their planning a good deal easier. If, on the other hand, they do not know whether your action would be before their referendum (if it is held in the autumn) or whether it might be later than that, it will create an uncertainty for them that might be an advantage for you.

Altogether you might want to consider whether the degree of precision that you should give is in something such as the following:

1. Full detail as to the substance of the program.

2. Indication that a conference of First Ministers will be held in July in a further effort to get agreement.

3. Firm commitment to action on the Joint Address within twelve months of the election.

The above would, I think, provide enough precision that you would have a clear mandate for action and that you could not be sucked into a new morass of endless discussion. On the other hand, it would leave a tactical flexibility that could be of considerable advantage.

R.G.R.