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Nov 14 18 10 '80

INTGOV AFF REG  
NOVEMBER 14, 1980

*C. M. Strayer*  
→ *M. Fred Gibson*  
*Mrs Reed*

MR. MICHAEL KIRBY  
SECRETARY TO THE CABINET FOR  
FEDERAL-PROVINCIAL RELATIONS,  
OTTAWA, ONTARIO

F.P.R.O. B.R.F.P.  
Michael Kirby

DEAR MICHAEL

NOV 17 1980

I RECEIVED WITH INTEREST YOUR PROPOSED DRAFTS OF SECTION 42 (LINKAGE) AND SECTIONS 40 AND 46 (REFERENDUM RULES COMMITTEE). I NOTE THE EXTENT TO WHICH THESE DRAFTS REFLECT CHANGES URGED BY SASKATCHEWAN, AND I AM ENCOURAGED BY THIS INDICATION OF FLEXIBILITY ON THE PART OF THE FEDERAL GOVERNMENT.

DETAILED COMMENTS ON YOUR DRAFTS FOLLOW.

SECTION 42 (LINKAGE)

A COUPLE OF TECHNICAL POINTS. FIRST, IN OUR VIEW, SECTION 2(A) IS NOT WELL DRAFTED. AN AMENDMENT CANNOT BE 'AUTHORIZED' UNDER 41(1)(A), AUTHORIZATION REQUIRES BOTH FEDERAL AND PROVINCIAL APPROVALS. WE HAVE A STRONG PREFERENCE FOR OUR ORIGINAL FORMULATION OF THIS SECTION. ALSO, WE NOTE THAT YOUR PROPOSED DRAFT DOES NOT REALLY CONTAIN A 'SUNSET' PROVISION, WHILE IT PROVIDES THAT THE REFERENDUM PROCLAMATION MUST BE AUTHORIZED WITHIN TWO YEARS, IT SETS NO TIME LIMIT FOR THE ACTUAL HOLDING OF THE REFERENDUM.

MORE IMPORTANTLY, AS YOU YOURSELF POINT OUT, THE FEDERAL DRAFT DOES NOT REQUIRE PARLIAMENT TO TAKE A SEPARATE DECISION TO APPROVE THE HOLDING OF A REFERENDUM. NOR DOES IT PROVIDE EVEN A LIMITED FORM OF RECIPROCITY (UNDER WHICH, IN APPROPRIATE CIRCUMSTANCES, A REFERENDUM MIGHT BE HELD TO APPROVE AN AMENDMENT SUPPORTED BY THE PROVINCES BUT OPPOSED BY THE FEDERAL GOVERNMENT). YOU WILL APPRECIATE THAT SASKATCHEWAN CONTINUES TO ATTACH IMPORTANCE TO BOTH THESE POINTS.

SECTION 40 (REFERENDUM RULES COMMITTEE, PART IV)

WE HAVE NO SERIOUS PROBLEMS WITH THIS DRAFT,  
THOUGH WE WOULD LIKE TO SEE THE INDEPENDENCE OF THE CHIEF  
ELECTORAL OFFICER GUARANTEED ('APPOINTED BY RESOLUTION OF  
THE HOUSE OF COMMONS').

SECTION 46 (REFERENDUM RULES COMMITTEE, PART V)

SEE COMMENT ABOVE, CONCERNING INDEPENDENCE OF C.E.O.

ALSO, WE NOTE THAT THE FEDERAL DRAFT ESTABLISHES  
THE REFERENDUM RULES COMMITTEE, UNDER SECTION 46, AS A  
PERMANENT, ONGOING BODY. IN OUR VIEW, THERE IS NO NEED  
TO CREATE A PERMANENT NEW BUREAUCRACY TO DEAL WITH  
SITUATIONS THAT WOULD ARISE, WE WOULD HOPE, ONLY ON A  
VERY INFREQUENT BASIS. WE CONTINUE TO PREFER THE  
CREATION OF AN AD HOC BODY FOR EACH REFERENDUM, AS PROPOSED  
IN OUR ORIGINAL DRAFT. IN OUR VIEW, REFERENDUMS SHOULD NOT  
COME TO BE REGARDED AS PART OF THE NORMAL ROUTINE OF  
GOVERNING.

AS YOU KNOW, WE CONTINUE TO AWAIT WITH INTEREST  
INDICATIONS THAT THE RESOLUTION WILL BE MODIFIED IN OTHER  
AREAS AS WELL.

ON A RELATED MATTER, I WANT TO EMPHASIZE THE  
IMPORTANCE WE ATTACH TO REACHING AN UNDERSTANDING, WITH  
AS MUCH PRECISION AS POSSIBLE, ON LEGISLATIVE OR  
ADMINISTRATIVE ARRANGEMENTS RESPECTING INTERNATIONAL TRADE  
IN RESOURCES. I BELIEVE YOU APPRECIATE THAT IT WILL NOT  
BE POSSIBLE FOR SASKATCHEWAN TO ENDORSE THE RESOLUTION --  
WHATEVER CHANGES ARE MADE IN OTHER RESPECTS -- UNTIL  
THIS MATTER IS RESOLVED TO OUR MUTUAL SATISFACTION. I  
LOOK FORWARD TO RECEIVING YOUR PRECISE PROPOSAL AT A  
VERY EARLY DATE.

HOWARD LEESON  
DEPUTY MINISTER  
SASKATCHEWAN INTERGOVERNMENTAL AFFAIRS

PMO PCO OTT

INTGOV AFF REG  
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