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115/30

Government of Canada

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MESSAGE

FILE - DOSSIER

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FROM DE ▶ MICHAEL J.L. KIRBY, Secretary to the Cabinet for
Federal-Provincial Relations

TO A ▶ MR. HOWARD LEESON
DEPUTY MINISTER OF INTERGOVERNMENTAL AFFAIRS
LEGISLATIVE BUILDING, REGINA, SASKATCHEWAN.

INFO ▶ PLEASE SEND THE ATTACHED BY TELECOPIER NO. 565-7317

NO.

DATE
NOVEMBER 6/80

PRECEDENCE - PRÉSEANCE

SECURITY - SÉCURITÉ

12 10

Reply
Telex dated Fri. Nov 14

C.: Mr. R. Tassé, Mr. B. Strayer, Mrs. B. Reed, Mr. F. Gibson

CHARGE TO - AU COMPTÉ DE

ORIGINATOR - INITIATEUR
MICHAEL J.L. KIRBY

DIVISION
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TEL
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APPROVED - AUTHORIZED
L. Lovelace



Federal-Provincial
Relations Office

Bureau des relations
fédérales-provinciales

November 6, 1980

Howard Leeson
Saskatchewan Intergovernmental Affairs
REGINA, Saskatchewan

Dear Howard:

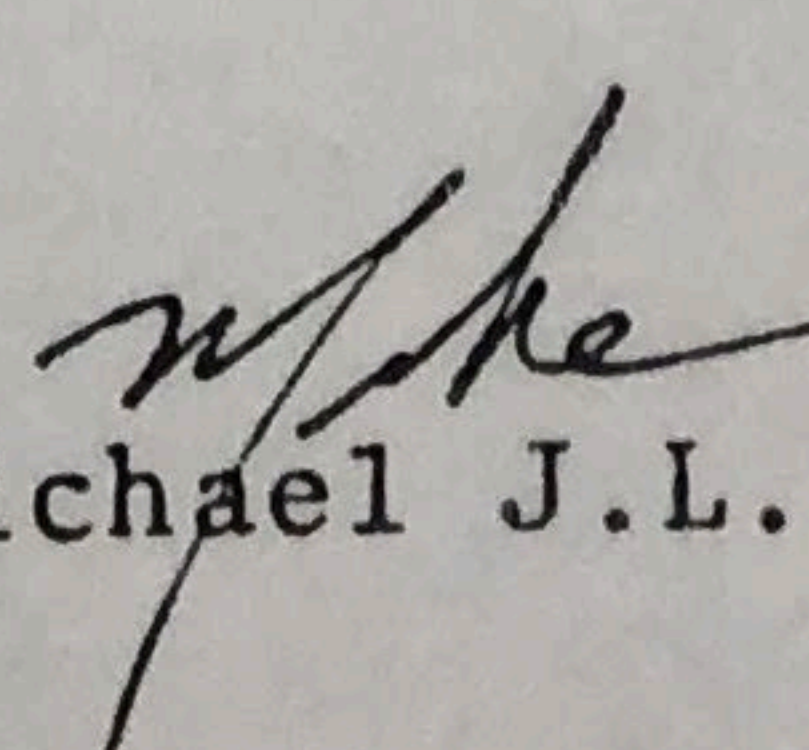
Further to our telephone conversation of yesterday, attached is a draft of section 42, to provide for a linking mechanism with section 41, and drafts of sections 40 and 46 to provide for a referendum rules committee.

I would emphasize that the drafts are not final and the Department of Justice has not yet completed reviewing them.

The draft of section 42 is along the lines of your earlier draft except, of course, it does not allow for a provincial initiative to call a referendum and it does not require the Senate and House of Commons to engage in a two step process whereby they would first approve a proposed amendment and, then, a year later be required to approve the holding of a referendum.

The drafts of section 40 and 46 also follow the pattern of your earlier draft although there has been some rearrangement of order of the subsections and the addition of details.

I will be out of the office during the latter part of next week and the beginning of the following week. Accordingly, you might contact Fred Gibson during that time with any comments you might have on the drafts, unless, of course, you wish to contact me directly before next Tuesday afternoon.


Michael J.L. Kirby

Ottawa, Canada
K1A 0A3

November 6, 1980

DRAFT

POSSIBLE AMENDMENT TO SECTION 42

Authorization
of referendum

"(2) A referendum referred to in subsection (1) shall be held where directed by proclamation issued by the Governor General under the Great Seal of Canada, which proclamation may be issued where

(a) an amendment to the Constitution of Canada has been authorized under paragraph 41(1)(a) by resolutions of the Senate and House of Commons;

(b) the requirements of paragraph 41(1)(b) in respect of the proposed amendment have not been satisfied within twelve months after the passage of the resolutions of the Senate and House of Commons; and

(c) the issue of the proclamation has been authorized by the Governor General in Council within two years after the expiration of the twelve month period referred to in paragraph (b).

November 6, 1980

POSSIBLE AMENDMENT TO SECTION 40

Right to vote

40. (1) Every citizen of Canada has, without unreasonable distinction or limitation, the right to vote in a referendum held under subsection 38(3).

Rules for referendum

(2) Subject to subsection (1), rules applicable to the holding of a referendum under subsection 38(3) may be made by proclamation issued by the Governor General under the Great Seal of Canada where so recommended by the Referendum Rules Committee established under this section.

Establishment of Rules Committee

(3) If a referendum is required to be held under subsection 38(3), a Referendum Rules Committee shall forthwith be established consisting of

(a) the Chief Electoral Officer of Canada, who shall be chairman of the Committee;

(b) a person appointed by the Governor General in Council; and

(c) a person appointed by the Governor General in Council

(i) on the recommendation of the governments of a majority of provinces, or

(ii) if the governments of a majority of provinces do not recommend a candidate within sixty days after the Chief Electoral Officer of Canada requests such a recommendation, on the recommendation of the Chief Justice of Canada from among persons recommended by the governments of the provinces within thirty days after the expiration of that sixty day period or, if none are so recommended, from among persons knowledgeable in the holding of elections.

Duty of Committee

(4) The Referendum Rules Committee shall, by majority decision, recommend to the Governor General rules for the holding of the referendum under subsection 38(3) and may include in any such rules penalties for the contravention thereof.

Rules to have
force of law

(5) Rules made under this section have the force of law and prevail over other laws to the extent of any inconsistency.

November 6, 1980

POSSIBLE AMENDMENT TO SECTION 46

DRAFT

Right to
vote

46. (1) Every citizen of Canada has, without unreasonable distinction or limitation, the right to vote in a referendum held under section 42.

Rules for
referenda

(2) Subject to subsection (1), rules applicable to the holding of referenda under section 42 may be made by proclamation issued by the Governor General under the Great Seal of Canada where so recommended by the Referendum Rules Committee established under this section.

Establishment
of Rules
Committee

(3) On the coming into force of this Part, a Referendum Rules Committee shall be established consisting of

(a) the Chief Electoral Officer of Canada, who shall be chairman of the Committee;

(b) a person appointed by the Governor General in Council; and

(c) a person appointed by the Governor General in Council

(i) on the recommendation of the governments of a majority of provinces, or

(ii) if the governments of a majority of provinces do not agree on a candidate within sixty days after the Chief Electoral Officer of Canada requests such a recommendation, on the recommendation of the Chief Justice of Canada from among persons recommended by the governments of the provinces within thirty days after the expiration of that sixty day period or, if none are so recommended, from among persons knowledgeable in the holding of elections.

Duration of
appointment

(4) A person appointed to the Referendum Rules Committee under paragraph 3(b) or (c) shall be appointed for a period not exceeding three years and may be reappointed pursuant to such paragraph.

Duty of
Committee

(5) The Referendum Rules Committee may from time to time, by majority decision, recommend to the Governor General rules for the holding of referenda under section 42 and, may include in any such rules penalties for the contravention thereof.

Rules to have
force of law

(6) Rules made under this section have the force of law and prevail over other laws to the extent of any inconsistency.