

CONFIDENTIAL

Fourth Meeting, Constitutional Conference

June 14-16, 1971

June 8th, 1971.

BRIEFING PAPER

PATRIATION

A. Federal Objectives in the Discussion of this Subject

1. To ensure, if possible, that there is a clear agreement here to proceed with patriation and specific constitutional changes on the basis of the approved texts. This means that all first ministers should be asked to agree to recommend to their respective legislative bodies the constitutional texts as approved here. Ideally, there should be an understanding that this will be done as soon as possible.

2. To confirm the agreement, reached at the Ministerial Meeting of May 31-June 1, on a common form of resolutions to be passed by legislative assemblies and the two Houses of Parliament.

B. Discussion Guide

1. We are assuming there will be unanimity here and in approval by legislative bodies. If the question is raised, it might be said that if there were substantial agreement here but not unanimity, we would have to re-consider the situation. We are not waiving the right and responsibility of the Government of Canada and the Parliament of Canada to request amendments by Westminster.

2. The Proclamation bringing the Charter (or whatever it may be called) into effect would be issued in the name of the Governor General and not in the name of Her Majesty. Some questions may be raised about this (perhaps by Ontario). It can be pointed out that it was agreed in the February Conclusions that there would be the "issuance of a Proclamation by the Governor General". Both methods are used for other proclamations: the Governor General does issue some proclamations in his own name.

C. Background

The sequence of events as agreed in the February Conclusions is as follows.

- (i) Agreement among governments i.e., here at Victoria.
- (ii) Approval by resolutions of legislative assemblies plus the two federal Houses. We would hope this might be completed by the end of March, 1972.

- (iii) U.K. Enactment, confirming the force and effect of the Charter and repealing related U.K. laws as of the time when it is there- after proclaimed /we would hope this U.K. Act might be passed by the end of June, 1972/.
- (iv) Issuance of a Proclamation by the Governor General, bringing the Charter into effect, and thus, as a consequence, making effective the U.K. law /conceivably this could be done by July 1, 1972/.

Note: The details of these steps are explained more fully in our memorandum of May 11th to the provinces, to be found under Tab 20 of the book, and in the Secretariat folder. However, that memorandum does not suggest specific timing for steps (ii), (iii) and (iv) and it may not be appropriate to make any specific suggestions of this sort at the Victoria meeting.