

DISCUSSIONS WITH PREMIERS RE "PATRIATION" OF CONSTITUTION

Alberta - Premier Lougheed - May 16th, 1975

Meeting 3:30 - 4:30 in Premier's office attended by:
Premier Lougheed; A.G. Lou Hyndman; Peter Meekison; Carter and self.

Presentation - Reminded of discussion at dinner on April 9; reactions by Premiers; initial contact (by telephone) had been with Mr. Bourassa (as the Premier most concerned). Bourassa had asked me to contact a few English speaking Premiers (not all) first and had specifically asked me to see Mr. Lougheed. Had seen Schreyer en route; would see Davis on Tuesday; then Mr. Bourassa. Said I thought Mr. Bourassa wanted a bit more time re "constitutional guarantees".

- then gave presentation of proposal.

Points raised by Mr. Lougheed et al

1. The Supreme Court: Raised question whether it would not be possible, in the "patriation" operation, to include the Victoria formula re the Supreme Court (Part IV).

I said would not involve getting into substance of B.N.A. Act since Supreme Court is not established by it. Thought could be added if was general wish.

Lougheed: (a) Referred to discussion at Premiers' Conference in autumn 1974. All but Hatfield had favoured formula (Part IV). Hatfield had said only supported it at Victoria to get other parts of Charter. Was basically opposed to - but might agree to get amending formula.

(b) Said Part IV would be a definite addition for Alta. Would give some substance and attraction to exercise.

2. The "Possible B.C. veto": Mr. Hyndman referred to "majority of population" provision for western provinces - not for Atlantic. Why in? Why not as for Atlantic? Explained Bennett insistence in 1971. Meekison added that at one point in 1971 Bennett had pressed for 5 regions - B.C. to be a region and therefore a veto without either 25% total population or a majority of western population.

Lougheed stressed that present Alberta government had no commitment re Victoria. They thought Alta. development might keep B.C. from ever having a majority of western population but, even so, were opposed to that provision in Part IX. Wanted me to talk to Mr. Barrett re.

3. Additional provinces: Hyndman asked what situation if 1 or 2 added. I said would not necessarily have to change formula. Under Art. 49 "majority" of provinces required: 6 of 10; 6 of 11; 7 of 12. A new provinces of "Yukon" or "N.W.T." could be part of or affect "majority", but would not come under S.S. (1), (2) or (3).

Hyndman said would not want a new province to "dilute" the requirement re the west (i.e., be one of "two of the western provinces"). (I should also have pointed out Art. 57 which names the 4 "western provinces".)

Final position

1. Hyndman will put matter to Alberta Cabinet and will recommend that Alta. be prepared to go along with "patriation" exercise provided:

(a) drop "at least 50% of the population of all the western provinces".

(b) include Supreme Court (Part IV).

2. Mr. Hyndman or someone for him will phone me re Alberta position after #1.

3. Mr. Lougheed asked me to advise Mr. Bourassa of the Alta. position, especially re the Supreme Court. (I can advise him re the S.C. - and Mr. Lougheed wants me to - even if Alta. Cabinet has not decided re #1.)

4. I undertook -

(a) to make argument to Mr. Barrett re "50% of population" requirement

(b) to advise P.M. of importance of Part IV to Alta.

(c) to advise Alta. of positions of Ont. and Que. (I told Mr. Lougheed of position taken by Schreyer.)

Reflections

1. If B.C. will not agree on "50%", could put into "Fall Back position" the Victoria formula modified to omit "50%".

- B.C. might be angry, but would be difficult to argue for their position (in effect, for a veto if do not get 25% of population)
- if both B.C. and Que. were angry, might be better than Que. only.

2. Alternative, might be to go ahead on "patriation" if could get support of all provinces but B.C.

3. Might even consider going ahead with all but B.C. and Que.??