

CONFIDENTIAL

April 2nd, 1975

MEMORANDUM FOR MR. CARTER:

"Patriation" of the constitution

See the attached copy of a memorandum I have prepared for the Prime Minister to pull together a number of the things that he will want to have in mind before speaking to the Premiers as he plans to do - probably at the time of his dinner on April 9th.

You will recall that the other day I asked you to give some thought to the question the Prime Minister had raised with me as to whether there should be reference, either at the outset or early in discussions, about the "fall back" position. I gave the matter some thought over the weekend and you will see, beginning on page 5, a suggestion that I have made to the Prime Minister. There will be ample time to discuss this further and if you have any different view please let me know.

② Frank

je suis tout à fait d'accord qu'il est préférable de révéler la "position de repli" L'approche suggérée par ROR est en fait plutôt excellente. Et faut je peux profiter de la majorité de Bourassa et du fait qu'il n'en est qu'à la mi-terme, pour le convaincre qu'il a tout à gagner politiquement à procéder rapidement en demandant son accord. Un point me laisse songeur - l'article de presse ci-joint que nous devrions porter à l'attention du P.M. et de ROR -

R. 4.11

① Prépare
- je suis d'accord sur tous les points
- tu l'es aussi?
FC
PC

PART IX
AMENDMENTS TO THE CONSTITUTION

Art. 49. Amendments to the Constitution of Canada may from time to time be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the Legislative Assemblies of at least a majority of the Provinces that includes

- (1) every Province that at any time before the issue of such proclamation had, according to any previous general census, a population of at least twenty-five per cent of the population of Canada;
- (2) at least two of the Atlantic Provinces;
- (3) at least two of the Western Provinces that have, according to the then latest general census, combined populations of at least fifty per cent of the population of all the Western Provinces.

Art. 50. Amendments to the Constitution of Canada in relation to any provision that applies to one or more, but not all, of the Provinces may from time to time be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the Legislative Assembly of each Province to which an amendment applies.

Art. 51. An amendment may be made by proclamation under Article 49 or 50 without a resolution of the Senate authorizing the issue of the proclamation if within ninety days of the passage of a resolution by the House of Commons authorizing its issue the Senate has not passed such a resolution and at any time after the expiration of the ninety days the House of Commons again passes the resolution, but any period when Parliament is prorogued or dissolved shall not be counted in computing the ninety days.

Art. 52. The following rules apply to the procedures for amendment described in Articles 49 and 50:

- (1) either of these procedures may be initiated by the Senate or the House of Commons or the Legislative Assembly of a Province;
- (2) a resolution made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

Art. 53. The Parliament of Canada may exclusively make laws from time to time amending the Constitution of Canada, in relation to the executive Government of Canada and the Senate and House of Commons.

Art. 54. In each Province the Legislature may exclusively make laws in relation to the amendment from time to time of the Constitution of the Province.

Art. 55. Notwithstanding Articles 53 and 54, the following matters may be amended only in accordance with the procedure in Article 49:

- (1) the office of the Queen, of the Governor General and of the Lieutenant-Governor;
- (2) the requirements of the Constitution of Canada respecting yearly sessions of the Parliament of Canada and the Legislatures;
- (3) the maximum period fixed by the Constitution of Canada for the duration of the House of Commons and the Legislative Assemblies;
- (4) the powers of the Senate;
- (5) the number of members by which a Province is entitled to be represented in the Senate, and the residence qualifications of Senators;
- (6) the right of a Province to a number of members in the House of Commons not less than the number of Senators representing the Province;

- (7) the principles of proportionate representation of the Provinces in the House of Commons prescribed by the Constitution of Canada; and
- (8) except as provided in Article 16, the requirements of this Charter respecting the use of the English or French language.

Art. 56. The procedure prescribed in Article 49 may not be used to make an amendment when there is another provision for making such amendment in the Constitution of Canada, but that procedure may nonetheless be used to amend any provision for amending the Constitution, including this Article, or in making a general consolidation and revision of the Constitution.

Art. 57. In this Part, "Atlantic Provinces" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, and "Western Provinces" means the Provinces of Manitoba, British Columbia, Saskatchewan and Alberta.