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September 16th, 1974.

c.c.: Mr. Austin  
Mr. Nixon  
Mr. Hudon  
Mr. Smith

MEMORANDUM FOR MR. KIRBY

Prime Minister's Speech  
in the debate on the  
Address: section on  
constitutional repatriation

Attached are two copies of a first crack at a section for the Prime Minister's speech on the subject of "constitutional repatriation" which I undertook to draft.

In order to get a running start at the section, I gave some thought to the way conceivably the Prime Minister's speech might open and lead into the general connecting theme that we discussed on Friday. That is also herewith - it simply precedes the section on constitutional repatriation while indicating a gap into which would be fitted something on "the proper role of government" which Gordon Smith is preparing. There are undoubtedly a dozen ways of introducing the speech and you may have at least eleven that are better than this. However, for what it is worth, here it is.

This section on constitutional repatriation does not go at all into anything but the problem of the procedure of amendment. That of course is the crux of the problem of "repatriation". When we discuss this matter with the Prime Minister, it will be desirable to consider whether he would want to say anything at all on other aspects of the constitutional question. I have in mind particularly the matter of constitutional guarantees for fundamental rights. These are, of course, particularly connected with the basic theme of "the individual". It would be logical and consistent to say something about it but, on the other hand, the Prime Minister may think that it would be tactically wisest not to get into any matters of

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substance. If the federal government begins to talk "substance" in its proposals on the constitution, it can be expected that the provinces - and especially Quebec - will do the same and there will be no chance of achieving the prime objective of repatriation. In any event, the draft herewith may provide a starting point for discussion.

R.G.R.

great deal of time, as we do in cabinet committee, on federal-provincial relations, trying to ensure that the decisions we take which are closely interrelated with provincial problems in their areas of jurisdiction are dealt with in a way which behooves our very complex society. We must recognize that and organize accordingly. That is why several provinces, and I do not know if it is most, have sought to ensure that degree of co-ordination by establishing a department of intergovernmental affairs with a minister at the head of such department.

In our government we established a branch of the Privy Council office to co-ordinate policy under the direction of the Prime Minister. My predecessor and I were of the view that it would not be wise to establish such a department of federal-provincial affairs. It is not feasible to have one minister other than the Prime Minister charged with the final responsibility and authority of co-ordinating the policies and actions that in substance fall within the ambit of one or another ministerial department.

● (1630)

I am satisfied that this decision was right. We have had improved co-ordination of policy and of federal-provincial discussion in recent years. There is obviously much room for improvement. However, I do not think there is a need to change the basic organization. What is needed, in light of the increasing scope and complexity of federal-provincial questions, is a strengthening of the resources which we at the federal level devote to these problems and the negotiations related to them. That is the reason the government decided to create an independent office for federal-provincial relations, to be responsible to the Prime Minister.

This office will be headed at the official level by one of the most senior officers of government, who will be titled "secretary to cabinet for federal-provincial relations" with the rank of deputy minister. The responsibilities will not be substantially different from those of the federal-provincial relations branch of the Privy Council office. Nor will the office be unduly large at the outset. The principal difference will lie in the capacity to maintain relations with regard to—federal-provincial policy generally at a more senior level than has been possible thus far.

[Translation]

Mr. Speaker, another topic I would like to discuss and which I also find important in the context of our federalism, is to increase the federal presence in a general way across the country. A while ago I referred to the great distances that separate us. Now I say that if we look at the political competition between the federal and the provincial powers, we notice that each time the federal government representatives are penalized, at least as far as their number is concerned, by the provincial representatives. There are almost three times as many provincial members as federal members, there are more than six times as many provincial ministers as federal ministers in our office as a whole.

Of course, and I cannot count the politicians working at the municipal level, for every political man and woman in this profession it is desirable to make oneself known, to be seen in the best possible light and because of this competi-

tion, it often happens that the federal presence is not really felt as it should be in every part of the country.

Quite often a federal policy is known through the media and by the reactions it causes from provincial governments. Since the country is vast, the distances separating us have prevented us—and I find that a serious matter—from seeing to it that all Canadians never cease to consider Ottawa as the capital of every citizen, as their capital.

We have enacted much legislation in the 28<sup>th</sup> and 29<sup>th</sup> Parliaments to increase the influence, the working capacity and the privileges of the hon. members. We shall continue to make progress in that direction but today I would like only to point out how important is this federal presence for the government and tell the House that in our discussions with the provinces we shall put greater emphasis on the principle that moneys coming from the federal tax payer and spent by the federal government on behalf of that tax payer must be recognized as coming from the federal government. I would hope that the various reforms known to this House and which have already been mentioned, like decentralization, keep on making progress, that an organization like Information Canada be entitled to express in an even more real and vigorous way the federal presence throughout Canada. I talked earlier about the advantage of having radio and television broadcasting of the House of Commons debates.

[English]

There is another area of business which has remained unfinished ever since we became a country 107 years ago. I was very pleased to note that the Leader of the Opposition gave importance to that fact when he noted that constitutional reform had not yet succeeded in bringing back our constitution to Canada. We were the first portion of the then British empire, after the great revolution which created the United States of America, to establish a constitution which could be the basis for an independent, self-governing country. I say "the basis" because we did not become independent in 1867 in every sense of the word. Among other things, the tutelage of the mother of parliaments was reflected in the fact that we were provided with no way to amend our constitution, as was pointed out by many speakers including the Leader of the Opposition. With all our freedom to choose and all our ingenuity to revise, we have never been able to agree on how to amend our constitution.

Every other country in the world, with no exception, has been able at least to do that. I agree with the Leader of the Opposition that it is a standing reproach to us as Canadians, and particularly to those of us engaged in the activities of politics, that we have so totally failed in this kindergarten, fundamental structure of political independence. I believe it is time we got into grade one. It is time we in this government, in this parliament, decided that we are going to solve that problem before we pass from the scene.

Some hon. Members: Hear, hear!

Mr. Trudeau: I hear some hon. members opposite refer to the Victoria 1970 constitutional conference. I would point out to them that there have been 50 years of effort to achieve what we attempted at Victoria and failed. During nearly half of our national existence—just think of it—we

*The Address—Mr. Trudeau*

have been trying to solve this problem and have constantly failed. The problem was first fully considered at the dominion-provincial conference of 1927 where it was agreed that Canada should have the power to amend her own constitution. That was under Mr. King's government. The matter was again studied by parliament in 1931 when it considered the Statute of Westminster under Mr. Bennett's government. In 1935, parliament set up a special committee "to report on the best method by which the BNA Act may be amended". The same year, another dominion-provincial conference set up a continuing committee of attorneys general to prepare a draft of a method of procedure to amend the BNA Act. That committee reported in 1936, but again to no avail.

● (1640)

In 1949, Mr. St. Laurent decided to cut out part of the problem and to introduce the first amendment to the BNA Act, which was passed, to provide certain powers to amend purely federal aspects of the BNA Act. He initiated a federal-provincial constitutional conference which met twice in 1950 but, again, produced no real agreement. Then in January, 1960, the dean of this House, the hon. member for Prince Albert (Mr. Diefenbaker), when he was prime minister spoke of this matter in the throne speech debate. He expressed the hope "that the time will not be too long delayed when we will be able within our own country to arrive at a basis for the amendment of our own constitution". He set up a conference of attorneys general which took up the matter in 1960 and 1961. Most of the provinces agreed on a formula, but differences of view remained and that exercise failed.

In 1964, Mr. Pearson took up the challenge, and once again progress seemed to be made. The House will recall that the Fulton formula became the Fulton-Favreau formula. There were more conferences, more proceedings, more high hopes, and more failures. In 1968—the Leader of the Opposition reminded us of this—we began a most serious assessment and review of our whole constitution. We had a series of conferences and special committees, which all members of this House will recall, and the culmination was in the Victoria conference in June of 1971 when there was at least agreement by all provinces, all eleven of them, on a procedure for amendment. But in the end, the Victoria charter failed to receive acceptance from Quebec, not because of disagreement with the amending formula but for quite another reason.

I have gone into this history for two reasons; one is to show how long and how hard we have tried to achieve complete agreement for action on the basis of unanimous consent and the other is to show how general has been the agreement by statesmen of all parties and in all parts of the country that the problem of the amending procedure and of bringing back the constitution across the ocean to be domiciled wholly and entirely in Canada is one that should be solved. It is one on which there seems to have been a general will to reach agreement, I repeat, for 50 years.

I can quote something that scholastics used to quote as being a test of a general desire to seek the truth, "*quod ad omnibus, quod ubique, quod semper*". It seems to me that this is something that meets the test. Everywhere, everyone has always wanted to have this done, yet we always

[Mr. Trudeau.]

seem to have failed. I agree with the Leader of the Opposition and I am very happy to have the support of his party in saying that it is time to decide that this will be done and that we will settle on an amending procedure within four years.

Some hon. Members: Hear, hear!

Mr. Trudeau: I am confident of the support of the party opposite, and I say that I will seek the agreement of all provincial governments in achieving this end with great determination. If no better formula can be found, then we will propose the adoption of the formula which received agreement in 1970 in Victoria. I am confident that the people of Canada will agree with whatever action is required to settle this question once and for all.

[Translation]

I should like to address my colleagues from Quebec in a special way, because we know it is often there that the stumbling-block was, in 1971, as well as for the Fulton-Favreau formula. I am convinced this applies also to my colleagues on the other side: some will possibly find unthinkable that we should explain to people in Quebec that all we want is to bring back in Canada our own Constitution. But I think it will be fairly easy to convince them that they no longer need to seek the help of Great Britain, that they no longer need to hide behind Great Britain's skirts when we discuss among ourselves political issues affecting us all.

[English]

I want to talk about one more piece of unfinished business, and here too I am very happy that the Leader of the Opposition underlined it as one on which serious action should be taken. It is the question of bilingualism. I was, I admit, surprised to see the Leader of the Opposition wring his hands because we had not mentioned that subject in the Speech from the Throne. He will no doubt recall that when we did mention it in the first Speech from the Throne in the last parliament, members of his party and the New Democratic Party told us that it was much too sensitive a subject to be brought before the House of Commons. Now he is telling us that we should have brought it before the House. I am bringing it before the House of Commons and I hope that here, too, we will agree that it is absolutely vital that we use these four years of reasonably and, hopefully, stable government to establish firmly the federal capital as the capital of all Canadians.

Some hon. Members: Hear, hear!

Mr. Trudeau: To the separatists who argue that that could never be so for a French-speaking Canadian, all parties in this House can respond that the Official Languages Act would make it so. Therein lies an obligation that we all have, a kind of political contract with French-speaking Canadians under which they would reject separatism and the federal parliament would guarantee the right to French Canadians to communicate with and work in the federal administration in the French language. I solemnly believe that if we do not or cannot make that right a reality during the life of this parliament with its commitment to bilingualism, with the very emphatic words of the Leader of the Opposition in his speech an hour ago, with the strong French-speaking representation