

Fredericton, N.B. - July 3, 1975 -

Meeting - 11:30 - 1:00; lunch to 3:30. Present: Premier Hatfield; Marcel Wasse (Sec. to Cabinet of N.B.), Frank Carter & self.

Presentation - Outlined positions taken by Premiers chronologically. At end, Mr. H. asked what the federal gov't. position was. I said that the reactions and positions of Premiers had not yet been put to the Cabinet: simply the original objective of "patriation" on the basis of the Victoria amending formula. So far as the P.M. was concerned, I thought Mr. Campbell's two points were acceptable, as was Mr. Bourassa's contribution - a guarantee in principle. I thought the addition of "regional disparities" would also be acceptable if it was the Victoria formula (Part VII). I had no idea whether it would be acceptable to add anything such as Mr. Campbell wanted.

Discussion: Mr. H. began by saying forthwith that the additions proposed on the Supreme Court and to guarantee French culture caused difficulties for him. The original, bare proposal had been OK, but the expanded plan was now of a problem. The points he made were:

① Supreme Court - He reminded us that he had approved this idea at Victoria. He had accepted it then only as a necessary price to get the Charter. He was still opposed to it and had made that clear at the interprovincial Conference in Toronto last fall. Part IV brought judicial appointments and discussion at a political level; implied acceptance of the idea that judges



were open to <sup>him</sup> his because of the agency representing them; and would add an element of cynicism to the attitude toward the courts. I said I respected his arguments, but reminded him that at present the Supreme Court was almost unavailable for jurisdictional <sup>cases</sup> between the federal government and Quebec (a Newfoundland). The sum of his was real. Mr H. <sup>disputed</sup> agreed; disputed it; but still doubted the <sup>reality</sup> remedy. He felt it would do little to help - if anything.

② Constitutional Guarantees - Mr H. said anything of this kind would resurrect difficulties for him. He asked whether such guarantees would <sup>enforce</sup> "subvert" the NB Official Language Act constitutionally. I said not in the kind of concept that was <sup>being thought about</sup> ~~proposed~~ (which I then outlined to him). He said he would like to see the NB O.L.A. given constitutional protection so it could not be repealed by a later legislature. I asked if he wanted the <sup>same</sup> same for the Federal O.L.A. He seemed a bit surprised that it did not have any constitutional protection now. I said I saw very real difficulties about any attempt to do what he proposed for NB. If for NB, what about Quebec? How would any proposal to kind <sup>of</sup> provision be accepted there? What about Bill 22?

This led Mr H. to another aspect of his problems with the "constitutional guarantees". Anything about the French culture, in the wake of Bill 22 which had been very embarrassing to him with its "French only" official language, would resurrect that problem. If there had to be any "guarantee" it would have to include both languages. He was clearly quite unhappy about the idea, not because of



any objection to the protection of the French culture, but  
 because it would revive the controversy over two official  
 languages - N-B. I said we would look at what  
 might be formulated to see how far it could go to meet  
 his concerns - of both types.

③ Regional disparities - Mr. H. agreed with Premier Ragan  
 that, if anything went in on "French culture", there would  
 have to be something on regional disparities. He thought he  
 would also favour the sort of thing Premier Campbell wanted:  
 a more specific and enforceable provision, especially about  
 provision for the level of government services.

④ Amending formula - Mr. H. said either Part IX or  
 a modified version to meet Mr. Longhead's points would be  
 acceptable to him. Despite mention in his letter of May 23  
 to the P.M., he did not refer to the proposal to omit  
 Articles 53, 54 and 55.

⑤ The general exercise and objective - Mr. H. said he  
 much favoured "patriation" and "repealing the BNA Act"  
 so that we had our own constitution in our own control.  
 He felt the federal government had not made clear the  
 importance of it. There were all kinds of jurisdictional  
 conflicts - with Alberta on resources; on communications;  
 off-shore minerals - we should be able to deal with  
 changes to clean such things up. The agreement should  
 be made.

To achieve "patriation" with capacity to amend,

everyone would have to be prepared to pay a price. He seemed to imply that he might be resigned to the price of Part IV and some sort of "constitutional guarantees".

⑥ Tector and Handberg - Mr H. said, in reply to a question by me, that he thought a conference of First Ministers would be needed before the matter could be considered ready for action with the legislators. It would be a "consultation" rather than a conference to discuss.

He referred to the meetings of officials in 1968-1971 with approval. Meetings of that kind might be useful.

I mentioned Mr Campbell's doubts about Mr Brennan's attitude, based on comments by him at St. Andrews (the meeting of Premier + Governors of the New England states). Mr H. confirmed the comments. Mr B. had indicated his concern about raising the question amid the problems of labour, the Olympics, etc.