

Mr Robertson - PCC

*FD
MCK*

CONFIDENTIAL

September 18, 1975

URGENT

SEEN
P. M.

*P.M.
If I could have your
reaction some time to-morrow
it would be especially helpful.*

MEMORANDUM FOR THE PRIME MINISTER

Conversation with Mr. Julien Chouinard
and revised Form for the Proclamation

M.R.

Pursuant to your conversation with the Prime Minister of Quebec, Mr. Bourassa spoke to Julien Chouinard and asked him to get in touch with me as soon as he saw any possibilities for discussion. I had a long conversation on the telephone with Mr. Chouinard on September 17, 1975.

Mr. Chouinard outlined to me the best possibilities that he could see, bearing in mind the constraints imposed by our intention of not getting into a consideration of the distribution of powers. He has not yet raised these matters with Mr. Bourassa. His suggestions are the following:

1. "Singularizing" the French language and culture

Chouinard suggested that the third Article of the proposed Proclamation (Appendix No. 1 of the draft you have already examined)* could be strengthened from the point of view of Quebec if:

- a) The French language were "singularized" in Article 3 as it had been in the second paragraph of the Preamble. This seems more consonant with the historical facts: when the federation was established, the English language was not perceived as being endangered, but French was.
- b) A reference to culture were added.
- c) A negative aspect were added to restrain the federal Parliament and government from acting in a way that might adversely affect the French language and culture.

** That version
is attached if
you want to
look at it.*

Good work!

Sept 19: Spoke to R.G.Q. + agreed with proposals. He ... 2

*will send them to Chouinard, with message that we are reaching
the end of possible concessions.*

[Signature]

SEEN
P. M.
VU
22.9.75

The difficulty with his first proposal is that it might upset Mr. Hatfield. One way to reconcile Messrs. Hatfield and Bourassa might be to convert Appendix No. 2 of the earlier draft (federal language rights with a Section permitting provinces to entrench language rights) into Article 3 of the Proclamation. This would clearly establish the parity of the two languages at the federal level. The current Article 3 could follow as Article 4 to take note of the fact that, in spite of official parity, the French language is more likely to be endangered on the practical plane.

know you
I have reservations about adding culture, but it appears to be the price that will have to be paid for "patriation". I do not think that we will be able to make progress unless culture is included.

The negative aspect of which Chouinard spoke would enjoin the federal government and Parliament not to act in a regressive way with respect to the French language and culture. It would not give powers to prevent to the government or Legislature of Quebec.

These suggestions have been embodied in the modification of the second paragraph of the Preamble (which now speaks of specific provision for the constitutional status of English and French, and "singularizes" the French language and culture in terms of preservation and development); in the addition of a new Article 3 which defines language rights on the federal plane; and in the new Article 4 which now only refers to the French language and culture and which enjoins the federal government and Parliament not only to bear in mind the need for preserving and developing the French language and culture but also not to act in a way that might adversely affect the French language and culture.

2. Agreements

Chouinard, although not certain, thinks it is possible that Mr. Bourassa could have a defensible position on guarantees, "spirit" and on his specific mention of communications and immigration if an Article were added dealing with agreements ("ententes").

He saw three possibilities:

- a) A new Article saying that the governments could enter into agreements concerning the exercise of their powers at large.
- b) To have such a provision plus an amendment of Article 95 of the BNA Act which would introduce the idea and add "communications".
- c) To have a provision as referred to in (a) plus the indication that this would be "notamment dans les domaines de l'agriculture, de l'immigration et des communications".

The first suggestion would probably not be acceptable to Mr. Bourassa. The second is most certainly not acceptable to us, since it would tend to recognize constitutionally that communications is a joint responsibility. The third suggestion does appear to be sound.

Article 6 of the new proposed Form for a Proclamation embodies this idea. It has been cast in terms of ensuring greater harmony of action between governments and especially (for Mr. Bourassa) of avoiding actions that would adversely affect the French language and culture. The reference to agriculture has been dropped. *Inclusion of* it would make the article in a certain sense parallel to Article 95; agriculture has not been mentioned to date in our negotiations and Mr. Bourassa has not linked it to his cultural preoccupations; and finally, no major agreements in the field of agriculture are in the offing. On the other hand, it might be politically attractive to Mr. Bourassa. I would suggest that it not be included at this point in time, but that it be held in reserve as a subject for negotiation should the process bog down once again.

3. Regional economic disparities

Chouinard did not like ending this article with a reference to "no change in the distribution of powers", so the Article has been restructured to provide less risk of misinterpretation.

4. Bargaining points

Mr. Bourassa and his Cabinet will meet in early October to study, among other things, the patriation proposal. We could keep two items in reserve for bargaining, if need be:

- a) Inclusion of agriculture in the new Article 6 could be come a bargaining point.
- b) To satisfy M. Ryan, who is interested in a concrete sign of the spirit in which subsequent negotiations will be conducted, and to explain in part the mechanism through which agreements might be reached, Article 48 of the Victoria Charter could be added to the Proclamation as Article 7:

7. Une Conférence réunissant le Premier ministre du Canada et les Premiers ministres des Provinces est convoquée par le Premier ministre du Canada au moins une fois par an, à moins que la majorité des membres qui la composent décide de ne pas la tenir.

7. A Conference composed of the Prime Minister of Canada and the First Ministers of the Provinces shall be called by the Prime Minister of Canada at least once a year unless, in any year, a majority of those composing the Conference decide that it shall not be held.

Mr. Chouinard noted that there is to be a special two-day meeting of the Quebec Cabinet on October 8th and 9th, at which time the constitutional question, among other things, will be discussed. He thinks it very important that we should give him some reaction before that time if at all possible. I said that I would give the matter immediate attention and try to talk to him again today or tomorrow. He wants this to be guarded as strictly confidential.

I would welcome your comments and instructions.


R.G.R.