



Federal-Provincial Relations Office Bureau des relations
fédérales provinciales

MR. HURLEY:

Would you please return the
attached after you have
seen the Prime Minister's
comments. We have been
keeping the originals of all
memos sent to the PM.

merci.

6 oct.

L. Laverdure

Merçi!
J.R.D.

Mr. R. G. Robertson

September 8th, 1975.

Mr Hurley

MEMORANDUM FOR THE PRIME MINISTER

The Present State of the "Patriation" Exercise

To see. No word from Quebec so far.

*WJR
6/11/75.*

I asked James Hurley of this office to pull together the developments there have been in recent months, and particularly in the last few weeks, in connection with our operations on "patriation" of the Constitution. He has done a very good memorandum and you may find it helpful to read it exactly as he has sent it to me. The original is attached herewith.

In section A (Chronology of negotiations) the only thing that has not previously been reported to you is the result of my talk with Premier Blakeney which took place on August 7th. The only Premier I have not now seen is Premier Barrett and a question is whether I should try once more to see him (I have already made two efforts without success). The reason for some doubt is the position taken by the Premiers at their conference in St. John's on August 21st and 22nd (see page 5 of the memorandum). The communiqué is a bit ambiguous but it sounds as though they agreed that a conclusion with regard to "patriation" should be deferred until some time after their 1976 meeting, and that at that time it should be dealt with "in the context of a general review of the distribution of powers" and other related matters. Our observers were excluded from the meeting at which they discussed this question, as you will have noted from Mr. Haney's report.

"Discussed briefly with P.M. RGR 10/11/75"

So far as Quebec is concerned, the position is well covered in Hurley's memorandum, starting on page 7. Following our last discussion, I talked to ~~Julien~~ Chouinard on the telephone and he asked me to send him the draft material we had prepared for the preamble to the Governor General's proclamation.

15 Sept: talked to Brown. H. will get Chouinard to send R.G.R. some proposals within a week

SEEN
J.P.M.
8-29-75
19.9.75

I did that on August 12th, and, since I had not heard anything further from him before Mr. Bourassa's statement at Mont Gabriel, I 'phoned Chouinard again after that. He told me that Mr. Bourassa had studied our drafts very closely but was firmly of the view that they were not adequate for his purposes. Apparently he specifically referred to the lack of any reference to "culture", and he also said that the preamble, as it stood in our draft, would not have any operative effect to prevent such things as an unfriendly federal government (CRTTC plus CBC) establishing "three English language television stations" in Quebec without consulting the Government of Quebec or the Government of Quebec being able to do anything to prevent it. Chouinard said that Mr. Bourassa's statement at Mont Gabriel was very carefully considered and it represents what he thinks he needs. A copy of his statement is attached together with the transcript of the press conference that he gave after it.

Mr. Bourassa's Position

Pages 3 to 4 of Mr. Bourassa's statement are relevant. The third paragraph on page 4 reflects the position we had understood from his comments in April and May. The problem is what he means in his fourth paragraph about "the power and the means to decide finally about questions which concern the protection and the development of its (Quebec's) language and culture". Mr. Bourassa's comment about "three English language television stations" would suggest that what he has in mind is positive powers "to prevent" action that would be harmful to language and culture.

In the transcript of the press conference I have marked the most relevant parts on pages 5, 9, and 13. All of these comments appear to be consistent with a request for powers "to prevent", although the comment on page 9 is more general.

Questions for Decision

I think the questions that require early decision are the following:

- (a) Should I try to see Mr. Barrett at an early point?

I think probably I should, if only to complete the round. I am skeptical however whether I will get anywhere at all, particularly in the light of the St. John's communiqué.

*200 now
min by the
project.*

- (b) Should I try to see Mr. Bourassa and, if so, what position should I take with him? Would it be preferable for you to see Mr. Bourassa?

It might be possible to get some clarification of what it is Mr. Bourassa really is wanting, but obviously an immediate question would be whether the federal government would be prepared to go further than the draft preambles that we have sent. Hurley's suggestions are relevant in this context.

If we were to go further than the drafts now do, possibilities in ascending order of significance would be to insert a reference to culture; to have some reference to communications and immigration, with a commitment to consult the Government of Quebec about matters of importance to it; or to have such a reference plus a substantive power by the Government of Quebec to prevent defined categories of action in the field of communications and immigration that could damage the French language and culture in Quebec.

- (c) Should there be any alteration in strategy in the light of the developments in the last couple of weeks?

Possible courses would be:

- (i) To carry on, trying to get agreement with Mr. Bourassa and to determine Mr. Barrett's position, hoping to move ahead to agreed action in 1976.

This would obviously depend on being able to get an accommodation with Mr. Bourassa. If that could be achieved the other Premiers might perhaps be prepared to withdraw from the position they took at St. John's.

- (ii) To make some further effort at agreement with Mr. Bourassa, and failing it, to go ahead with our "fall back" position.

In the light of the consensus at St. John's, this would probably be very sharply criticized by the Premiers. They would be able to say that they had indicated agreement on the desirability of "patriation"; that they had specifically agreed that Mr. Moores should "canvass" the provinces to get their detailed views; and that they were clearly contemplating further discussion after the 1976 conference with a view to further action.

- (iii) To slow down the operation and accept a delay until 1977.

In considering the possible wisdom of this course, you might be interested in comments I have had in the last ten days from two prominent French Canadians - the Governor General and the Honourable Claude Castonguay. The Governor General asked me about the "patriation" exercise and I told him of the problems that had arisen with Mr. Bourassa.

He said he thought that we should consider that Mr. Bourassa may well be in so tight a position before the Olympics, and possibly shaping up to a 1976 election, that it will be very hard, if not impossible, for him to be very flexible in the next few months.

The conversation with Castonguay took place when I chaired a panel in which he participated at the meeting of the Institute of Public Administration of Canada. He referred to the way it had been possible some months after Victoria to "cool" the issue on social policy and get away from confrontation. He suggested that with a little time it might be possible to "cool" the issue on communications and to get more room to manoeuvre on language and culture.

It would be most helpful if you could find a few moments in which I could discuss the position with you as you see it. It seems to me that it would be unwise for me to make any further move in my own round of discussions without knowing more about the way you see the issue and the alternatives.

R.G.B.
