

- Use all capital letters and double space. - Ne taper qu'en majuscules et à double interligne.
- Right vertical broken lines denote 69 characters using Elite type (12/inch) or Pica type (10/inch). - L'espace entre les pointillés verticaux correspond à 69 caractères élite (12/po.) ou pica (10/po).



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MESSAGE

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FROM DE	MICHAEL J.L. KIRBY OTTAWA	NO	Their # 261592
		DATE	FEBRUARY 4/82
TO A	MR. REEVES HAGGAN CANADIAN HIGH COMMISSION LONDON, ENGLAND	PRECEDENCE PRÉSEANCE	FLASH
		SECURITY SÉCURITÉ	S E C R E T
INFO	PLEASE DELIVER BY 8:00a.m. - FEBRUARY 5th	12	10

THE FOLLOWING IS THE TEXT OF A LETTER TASSE WROTE TO ME TODAY:

I WAS A MEMBER OF A TEAM OF CANADIAN OFFICIALS WHO MET IN LONDON ON SEPTEMBER 26, 1980 WITH THE FIRST PARLIAMENTARY COUNSEL, SIR HENRY ROWE.

THE FOLLOWING IS AN EXTRACT OF A MEMORANDUM PREPARED BY BARRY STRAYER ON OCTOBER 3, 1980 FOLLOWING OUR MEETING WITH SIR HENRY:

"ON THE QUESTION OF HAVING THE CANADA ACT ENACTED IN BOTH ENGLISH AND FRENCH, SIR HENRY FORESAW DIFFICULTIES WITH THE MAIN BODY OF THE ACT, CONTAINING THE ENACTING CLAUSE BEING IN BOTH LANGUAGES. THE POINT APPEARED TO BE THAT PARLIAMENT (OR MORE PRECISELY, THE CLERKS OF THE TWO HOUSES OF PARLIAMENT) MIGHT WELL OBJECT TO THE ACTUAL

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FROM DE ▶ MICHAEL J.L. KIRBY
TO A ▶ MR. REEVES HAGGAN

NO
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INFO ▶ ENACTMENT BEING DONE IN FRENCH. HE HAD NO PROBLEM WITH THE CONSTITUTION ACT BEING IN BOTH LANGUAGES BECAUSE IT IS IN A SCHEDULE AND WOULD NOT REQUIRE A SEPARATE ENACTING CLAUSE. AFTER MUCH DISCUSSION IN WHICH WE EMPHASIZED THE IMPORTANCE OF BOTH LANGUAGES BEING TREATED EQUALLY, IT WAS AGREED THAT THE BODY OF THE CANADA ACT, (i.e. THE TITLE, PREAMBLE, ENACTING CLAUSE AND SECTION 1-7 OF THEIR REPLACEMENTS) WOULD BE IN ENGLISH, WITH A FRENCH VERSION IN A SCHEDULE A. THE FRENCH VERSION WOULD BE GIVEN EQUAL AUTHORITATIVE VALUE IN CANADA. WHAT HAD BEEN SCHEDULE A (THE CONSTITUTION ACT) WOULD BECOME SCHEDULE B, WOULD REMAIN BILINGUAL AND WITH IT ITS OWN SECTION PROVIDING FOR THE EQUAL AUTHORITY OF BOTH LANGUAGES."

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FROM DE ▶ MICHAEL J.L. KIRBY

TO A ▶ MR. REEVES HAGGAN

INFO ▶ THIS IS ESSENTIALLY WHAT WAS DONE IN THE CANADA ACT
AND SCHEDULE A OF THE ACT CONTAINS THE FRENCH VERSION
OF THE MAIN ACT AND THE CONSTITUTION ACT 1982 IS TO
BE FOUND IN SCHEDULE B.

OUR FILES INDICATE THAT AT THE TIME OF THE
FULTON-FAVREAU FORMULA, IN 1965, THE BRITISH WERE
PREPARED TO ENACT THE LAW IN ENGLISH WITH A SCHEDULE
CONTAINING THE WHOLE OF THE SAME ACT IN FRENCH.

I SHOULD POINT OUT THAT IT IS NOT UNPRECEDENTED
FOR THE BRITISH PARLIAMENT TO PROVIDE FOR AN ANNEX
IN THE FRENCH LANGUAGE. IN 1961, THE BRITISH
PARLIAMENT PASSED AN ACT TITLED; THE CARRIAGE BY AIR
ACT 1961, TO GIVE EFFECT TO THE WARSHAW CONVENTION
ON INTERNATIONAL CARRIAGE BY AIR. THE PROVISIONS
OF THE CONVENTION ITSELF ARE SET OUT IN A SCHEDULE
TO THE ACT AND ARE GIVEN THE FORCE OF LAW IN THE U.K.

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FROM DE ▶ MICHAEL J.L. KIRBY
TO A ▶ MR. REEVES HAGGAN

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INFO ▶ PART I OF THE SCHEDULE SETS OUT THE TEXT IN ENGLISH AND PART II, SETS IT OUT IN FRENCH. THE ACT PROVIDES THAT IF THERE IS ANY INCONSISTENCY BETWEEN THE TEXT IN ENGLISH AND THE TEXT IN FRENCH! THE TEXT IN FRENCH SHALL PREVAIL.

IT IS TO BE NOTED THAT THE FRENCH TEXT ATTACHED TO THE CARRIAGE BY AIR ACT 1961, IS THE FRENCH VERSION OF THE ENGLISH TEXT OF THE ANNEX TO THE ACT, AND NOT THE FRENCH VERSION OF THE TEXT ITSELF, AS IS THE CASE WITH THE CANADA ACT. I DON'T BELIEVE THAT ANYTHING CAN BE DRAWN FROM THAT. IT SHOULD RATHER BE EMPHASIZED THAT IN THE CASE OF THE CARRIAGE BY AIR ACT 1961, THE PROVISIONS OF THE FRENCH TEXT ARE GIVEN FULL FORCE OF THE LAW IN THE U.K. TO THE EXTENT THAT IN THE CASE OF INCONSISTENCY BETWEEN THE FRENCH AND ENGLISH TEXT, THE FRENCH TEXT SHALL PREVAIL. IN THE

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FROM DE ▶ MICHAEL J.L. KIRBY

TO A ▶ MR. REEVES HAGGAN

INFO ▶ CASE OF THE CANADA ACT, THE ACT SPECIFICALLY PROVIDES THAT THE FRENCH TEXT SET OUT IN THE ANNEX WOULD BE GIVEN EQUAL AUTHORITATIVE VALUE IN CANADA ONLY, THIS MEANING THAT INsofar AS THE U.K. ITSELF IS CONCERNED THE ENGLISH VERSION WOULD PREVAIL IF ANY INCONSISTENCY WERE TO BE FOUND BETWEEN THE ENGLISH VERSION AND THE FRENCH VERSION.

END OF TASSE LETTER.

THE CONTENTS OF THIS LETTER MAY BE USEFUL IN YOUR MEETING WITH THE LORD PRIVY SEAL ON FEB. 5.

PLEASE TELEPHONE ME AT HOME AT ^{7:30}8:00a.m.

MY TIME TO REPORT ON YOUR MEETING SO THAT I CAN REPORT TO THE PRIME MINISTER AT 9:30a.m.

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