c.c.: The Hon.Mr.Chrétien
Mr. Tassé
Mr. Pitfield
Mr. Coutts
Mr. Axworthy

S E C R E T

October 9th, 1980.

MEMORANDUM FOR THE PRIME MINISTER

Report on meeting between
Jean Chrétien and Roy Romanow
this morning

Mr. Romanow began by stressing three points:

1. The meeting was to be kept strictly confidential. He does not want the press to know that he and Chrétien have talked.

2. The purpose of the meeting was for him to find out "with absolute precision the federal bottom line on amendments it would accept to the constitutional Resolution".

3. Romanow stressed that the Broadbent position on resources as stated last Thursday on television and Monday in the House was Broadbent's own initiative and was not discussed with Premier Blakeney before being made public.

Romanow went through the same list of desired changes in the Resolution that Premier Blakeney raised with you in your telephone conversation. His major points included:

- changing the equalization clause so that payments would be made to governments not individuals;

- changing the amending formula back to the original Victoria formula to solve the PEI problem;

- agreeing to make a public commitment to put at the top of the Phase II Agenda the entrenchment of the Supreme Court and constitutional issues relating to natives.

The two major points which Romanow says are absolutely essential if the federal government is to get Allan Blakeney's support are dropping section 42 and including the resource clause along the lines proposed by the federal government this summer, but with some kind of provision for provincial involvement in international trade in resources.

Romanow's section 42 argument was based on the assumption that it changes the nature of Canadian federalism from one which involves two orders of government to a federation with two levels of government. He further argued that this section permits the federal government to continue to take what he calls "unilateral action" in the future because amendments could be made without the support of any provincial government.

The discussion on section 42 was heated and emotional. Mr. Chrétien repeatedly stressed the importance of a deadlock breaking mechanism in which the people, not governments, were the final arbiter of intergovernmental conflict. Romanow categorically rejected this argument but left the door open slightly that there might be an amendment to section 42 which he would find acceptable. Although pressed by Mr. Chrétien, he gave no indication of what an acceptable amendment might be.

As for the resources issue, Romanow had some specific legal wording which Roger Tassé agreed to look at and give me his comments on this afternoon.

Romanow also said that non-discrimination rights were "the biggest potential encroachment on provincial power in the Charter. It affects dozens of provincial laws". He asked that it be dropped from the Charter and left for discussion in Phase II.

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Romanow's entire argument was political. He repeatedly said that while he admitted that there was now strong public support for the federal government's position, he was convinced that this support could be turned around as the federal government faced problems of energy policy, a Budget, unemployment and inflation, and was simultaneously under prolonged attack by nine Premiers. He urged Mr. Chrétien to agree now to the suggested amendments repeatedly stressing that if Blakeney does not receive clear signals that his proposed changes are acceptable to the federal government he will then be forced to support the other western Premiers at their meeting in Toronto next Tuesday.

In short, Romanow guaranteed Blakeney's support if the federal government drops section 42 and agrees to the resources amendment. Without both these amendments, we will not get Blakeney's support. (For example, we asked Romanow if the resources amendment alone would be sufficient to get Blakeney's support and he said no.)

The meeting ended with Justice officials agreeing to look at the legal wording of the proposed resources amendment which Saskatchewan has developed and with Mr. Chrétien saying that there was a fundamental matter of principle involved in section 42 and the government was not prepared to compromise on this principle.

Michael Kirby

P.S. Blakeney and Hatfield will be meeting privately before they meet with the other Premiers next Tuesday.