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le 17 octobre 1978

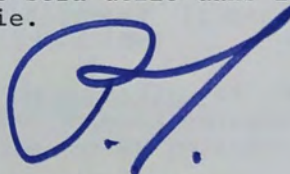
NOTE A L'INTENTION DU PREMIER MINISTRE

Anticipation de l'attitude des provinces
autres que le Québec
lors de la prochaine Conférence sur la Constitution

Vous trouverez ci-joint une note rédigée
par Claude Lemelin suite à des discussions à l'intérieur
du Groupe de Coordination et qui reflète les vues
collectives de celui-ci.

Marcel Massé, qui a eu la semaine dernière
des échanges avec tous ses homologues provinciaux,
est également d'accord avec la teneur générale de cette
note.

J'espère qu'elle vous sera utile dans la
détermination de votre stratégie.



Paul M. Tellier

p.j.

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October 16, 1978

MEMORANDUM TO P.M. TELLIER

Anticipation of the participation
of provinces other than Quebec in
the constitutional conference

The purpose of this memorandum is to anticipate the participation of provinces other than Quebec in the constitutional conference, in the light of statements made since June and of what is otherwise known about their intentions. Quebec's participation has been anticipated in a separate memo dated October 13, 1978.

Common goals

What will the nine premiers* of these provinces likely try to achieve at the conference? In our view, their goals may be anticipated as follows:

1. ensure that the process and timing of constitutional renewal initially proposed by the federal government be revised so as to conform with the common position adopted at Regina;
2. test the federal government's often stated willingness to amend the specific proposals of Bill C-60 to make them more acceptable to the provinces;
3. ensure that the revision of the distribution of powers and of the practice of federalism be so launched that concrete and beneficial results (i.e., federal "concessions" in the provincial perspective) may be expected from it;
4. maintain, to all extent possible, the "common front" achieved at Regina, and prevent the federal government from "dividing and ruling";

*For the purposes of this memorandum, it has been assumed that the present governments of New Brunswick and Saskatchewan will be reelected in forthcoming provincial elections.

5. be seen to contribute positively to the resolution of the national unity crisis;

6. avoid, if possible, a head-on clash between the Prime Minister and the Quebec Premier;

7. check any attempt by the federal government to exploit the conference for electoral purposes.

Specific goals

8. Those provinces which have developed detailed positions on constitutional issues (B.C., Alberta, Saskatchewan, Ontario) will make them known and/or press for their consideration, particularly as they relate to the various sections of Bill C-60. B.C. is likely to publish comprehensive proposals at, or on the eve of, the conference. Others may do likewise. Some of these positions will be reviewed in a separate planning document.

9. Those Premiers who are likely to seek a new mandate in coming months (Messrs. Bennett, Lougheed and Moores) will try to "position" themselves most favourably as champions of their provinces' "rights" and expectations.

Attitudes

All premiers will be going to the conference willingly -- sometimes eagerly. They may have felt unduly pressed by the federal government, and are probably still uneasy about the latter's real motivations; but all of them, with the possible exception of Premier Lyon (little is known about the interests of Premier Buchanan) have acquired a genuine interest in constitutional issues, are keenly aware of the need for change and, in several cases, welcome this opportunity to press for their own "pet" reforms. In this respect, the "atmospherics" of this conference are quite different from those which took place between 1967 and 1971.

A second key determinant of provincial attitudes is, of course, the presence in Quebec City of a separatist government and the resultingly endemic national unity crisis. All premiers will want to be seen to do "the right thing" about national unity -- the more so since the conference's proceedings will be public and televised. On the one hand, this will incline premiers to be fairly cooperative with the federal government, and to keep the tone and tenor of discussions positive and civilized, unless they feel

*Tuesday of this week, according to latest information.

"aggressed" and "pushed around" by the Prime Minister. On the other hand, the nine premiers will be uneasy about Premier Lévesque's participation in the conference. Many of them probably feel that they have contributed positively to national unity by bringing Quebec into their "common front" at Regina: these will be concerned about the risks of that province appearing isolated at the conference, and about the adverse fall-out of a "show-down" between Mr. Lévesque and Mr. Trudeau. All will be aware, in varying degrees, of the impact of their statements, and of public perceptions of the conference, upon public opinion in Quebec.*

A third key determinant of provincial participation in the conference is the fact that, so far, the federal government has not convinced them of the necessity of early action on constitutional renewal, given the impending referendum in Quebec. Accordingly, few premiers, if any, will want to facilitate the passage of an amended version of Bill C-60 before the 1st of July, 1979. They are more likely to try to defuse federal intentions in this regard and to protract discussions. A further determinant of provincial participation is the feeling of most premiers that, in political terms (i.e. electoral as well as "national unity" politics), Mr. Trudeau needs them more than they need him. Closely related is the resentment of some premiers at what they perceive as a tendency of the federal government to "reduce" unity and constitutional issues to the requirements of the Quebec situation.

Attitudinally, it might be useful to distinguish between the nine provinces as follows:

a) Claimant and assertive provinces -- the three westernmost provinces, B.C., Alberta and Saskatchewan. To the extent that Quebec's participation takes a positive train, some of the views expressed by the premiers of these provinces are likely to converge with Premier Lévesque's.

b) Apprehensive provinces -- the four Atlantic Provinces. To the extent that federal positions are open, flexible and forthcoming, the premiers of these provinces are likely to be sympathetic to these.

*One might consider ways and means of sharing our anticipation of Quebec's participation in the conference with the premiers of other provinces.

c) The reluctant province -- Manitoba, unless Premier Lyon joins the "western" caucus.

d) The compromiser, "honest broker" province -- Ontario. By and large, this has been the traditional role played by Ontario in federal-provincial discussions, when not aggrieved.

General approaches and opening statements

Each premier is likely to outline in his opening statement his general approach to constitutional renewal. All may be expected to broach the following themes, with varying degrees of insistence:

- appropriately lofty words on the state of the nation and the national unity crisis;
- willingness to consider with other governments ways and means to strengthen the federation and improve its constitution;
- crucial importance of the conference and its follow-up, inasmuch as constitutional renewal must be a cooperative effort between the two "authorities" of the federation;
- criticism of the federal government's approach and proposed process and timing, particularly its "unilateralism";
- in some cases, gratification at recent indications that the federal government may reconsider its approach;
- "broad stroke" criticism of specific elements of Bill C-60;
- in some cases, outline of provincial counter-proposals on these elements;
- proposal of an appropriate process for revising the distribution of powers, with emphasis on changes deemed of crucial importance to the intervening premier;
- reference to the Regina Communiqué;
- criticism of federal activities on related issues, such as expenditure cut-backs.

It is unlikely that the nine premiers will touch in their opening statements on the Quebec situation, the referendum, "sovereignty association", etc. Their general approach to the conference is also likely to play down these aspects of the situation.

The following sections attempt to anticipate which of the above elements the nine premiers are likely to emphasize.

Ontario

Given the position of his province within the federation and the fact that he will be the first provincial "respondent" to the Prime Minister's opening statement, Premier Davis is likely to make a "statesmanlike" intervention; but he will not refrain from criticizing the attitude and approach of the federal government to constitutional renewal so far. He may plead that this crucial exercise be undertaken as a joint endeavour between equal partners, rather than as a sterile and divisive confrontation between the federal government and the provinces. While the interests of Ontario make that province a natural ally of the federal government on most issues, tactical and partisan considerations may induce Premier Davis to be fairly assertive during the conference. He may agree that indeed the time for action has come, but only after due consideration of what actions are required. He is more likely to remain general in his comments on the distribution of powers, than to make specific claims for Ontario. He is more likely to insist on the need for clarification of responsibilities, through executive agreements and constitutional adjustments, than for radical changes in the present distribution of powers. He may espouse the recommendations of his Advisory Committee on central institutions, but without boxing himself into a corner, so as to retain the flexibility of the "compromiser" and the "honest broker".

Nova Scotia

Mr. Buchanan will be speaking after Premier Lévesque, whose intervention will have been one of the "news peaks", if not the news peak, of the first day. Little is known about Mr. Buchanan's overall approach to constitutional issues -- it may be that he will not have had time to develop one before the conference. He is reportedly very concerned about the monarchy: he may well emphasize this controversial element of Bill C-60 in his opening statement. Since he was not at the Regina Interprovincial Conference, he is likely to endorse formally the positions then adopted

by premiers, and criticize the federal government's approach to renewal. Furthermore, it is almost certain that he will address the distribution of powers, if only to press on his claim for fisheries and offshore mineral rights, with which he is intensely preoccupied. Finally, Mr. Buchanan may have serious reservations about the charter of rights.

New Brunswick*

Premier Hatfield (if he is reelected) may seek to rebut, with emotional overtones, some of Mr. Lévesque's remarks. In any case, he is one of the few premiers who may be expected to deal explicitly, in his opening statement, with the Quebec dimension of the national unity crisis. Among Atlantic premiers, he will be the least apprehensive about constitutional renewal. Ideologically, if not politically, Premier Hatfield can be considered an "ally" of the federal government. He may be expected to support the entrenchment of language rights and the federal contention that, in the revision of the distribution of powers, the federal government should be left with the legislative authority and fiscal leverage required to develop efficient economic policies as well as equalization and regional development programmes. Nevertheless, he may be expected to reiterate some of his past criticism of federal "unilateralism" and insist that, the legal situation notwithstanding, constitutional renewal should be a cooperative endeavour between the two orders of government.

British Columbia

More will be known, within a few days, about B.C.'s constitutional proposals, so that a more accurate scripting of Premier Bennett's opening remarks and general approach will be made before the conference. Perhaps Mr. Bennett will be less adamantly opposed than some of his colleagues to early action on the constitutional issues dealt with in Bill C-60, provided the content of the Bill is changed to conform more closely to his own preferences. This is particularly true of Senate reform: Mr. Bennett may be expected to argue strongly in favour of an upper chamber of the Bundesrat type. His provincial constituency may also lead him to "defend" the monarchy, to argue against entrenchment of fundamental rights in the constitution, and to oppose entrenchment of language rights.

*The election of Mr. Daigle as Premier of New Brunswick would bring a second French-speaking premier to the conference table. His presence, as an Acadian, would be highly symbolic. He could be expected to make a vibrant plea, after Premier Lévesque's intervention, for a French Canada that extends beyond the boundaries of Quebec.

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Prince Edward Island

Mr. Campbell is a "caretaker" Premier, unfamiliar with the federal-provincial forum, and well aware of his province's position within the federation; accordingly, he is unlikely to take trenchant positions at the conference. P.E.I. is very much concerned about the disruptive effects that Quebec's secession would have and very apprehensive about constitutional changes which would reduce the federal government's ability to equalize economic conditions between richer and poorer provinces. This is likely to be the major theme of his opening statement, in which he may also be expected to be supportive of federal intentions, and well disposed towards Quebec.

Manitoba

Premier Lyon is one of the few who might express reservations about the constitutionalization of a charter of rights. He may also be more strident than others in his criticism of the federal approach to constitutional renewal, more vibrant in his "defence" of the monarchy. His opening statement could well be the most critical of other specific provisions of Bill C-60, such as those concerning the Supreme Court. It is possible that Premier Lyon will question the high priority placed by the federal government on constitutional renewal, as against "dealing with the economy".

Alberta

Premier Lougheed may be expected to take a strongly provincialist view, both on the process and on the specifics of constitutional change. His argumentation against the federal approach may be counted upon to be more rigorous and more intransigent than that of most premiers. The Alberta government is expected to publish a number of position papers before the conference, so that the anticipation of its participation will become more precise in a few days. Premier Lougheed may place greater emphasis on the redistribution of powers than on the reform of central institutions. He is likely to question the adequacy of the Senate reform proposed by the federal government, to argue cogently in favour of strengthening "executive federalism", and to press for provincial appointments to federal boards and regulatory agencies. Almost certainly he will flag, in his opening statement, Alberta's main concerns on powers, such as natural resources, including the taxation of the same, and "intrusions". Premier Lougheed may also express reservations about the entrenchment of a bill of rights and the modalities for federal proposals concerning the Supreme

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court. Of all premiers, he is the most likely to highlight in his opening statement his position on patriation and amendment of the constitution. He is also likely to be concerned about the isolation of Quebec at the conference -- for tactical as well as "national unity" purposes.

Saskatchewan

Premier Blakeney (if reelected*) is likely to be one of the most cooperative and forthcoming premiers. While he will feel bound to refer to the Regina Conference, he is unlikely to insist that the federal government abandon its "unilateral" approach. He may be counted upon to resist a massive shift of powers to the provinces which would hamper the federal government's ability to manage the national economy and deal with problems affecting the federation as a whole. At the same time, he may emphasize the principle of the self-development of regions. Mr. Blakeney is the only premier west of Ontario likely to deal with the Quebec dimension of the crisis and to express his willingness to reach new accommodations which would prevent the secession of that province. He, too, may be expected to highlight his province's claims on powers -- particularly in the field of resource taxation, given recent Supreme Court decisions. He is likely to be fairly supportive of federal proposals on process and the conference follow-up.

Newfoundland

Being the last premier to speak, Premier Moores will find it difficult to recast in an original mold those themes which are common to the provinces. He may therefore be expected to be brief on these broad issues and to concentrate his comments on specific federal proposals and on those aspects of the distribution of powers in which his province is particularly interested: fisheries, energy and offshore mineral rights. Mr. Moores is perhaps the only premier who may exhibit some aggressiveness towards Quebec, given the contentious issues between the two provinces.

*Should there be a change of government in Saskatchewan, the positions adopted by Mr. Collver are likely to be closer to those of Premier Lyon than those of Premier Lougheed.

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detailed Positions (according to the agenda)

As is customary, FPRO will prepare before the conference a compendium of the known or likely positions of the various provinces on agenda items.

What Premiers would like to be able to say in their press summing-up

- "Substantial progress..."
- "We've managed to put constitutional renewal on the right track..."
- "Agreement in principle on..."
- "...the vital interests of the provinces will be considered..."
- "...due consideration to provincial proposals and counter-proposals..."
- "...we've managed to impress upon the federal government that unilateral action would be unwise and counter-productive. While we have not received formal assurances in this regard..."
- "Change by consensus is not only desirable but achievable, as this conference has shown..."
- "...demonstrate to the people of Quebec, as well as to other Canadians, that..."

Atlantic Premiers:

- "...agreement in principle on entrenching equalization and regional development as essential functions of the federal government... highly significant..."
- "...assurances that our positions on fisheries and off-shore mineral rights will be seriously considered..."

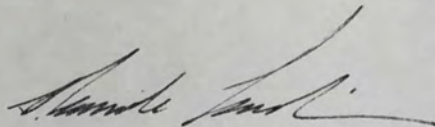
Western Premiers:

- "...assurances that our positions on resource taxation..."
- "...some progress, I think, towards the kind of reform of central institutions -- particularly the Senate -- that British Columbia would like to see..."
- "...agreement that Senate reform should not erode the executive authority of provincial governments..."

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Ontario:

- "...progress can only be made through cooperation,
not confrontation..."
- "...a lot of detailed, and no doubt difficult
discussions..."
- "...early action is indeed desirable and possible,
but not with arbitrary deadlines..."
- "...I regret that the Prime Minister of Canada has
not taken this opportunity to clarify his intentions..."
- "...I hope that a second conference...unresolved issues..."



Claude Lemelin