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MEMORANDUM FOR THE PRIME MINISTER

A Federal Response to the P.Q. Assault
on the Linguistic Consequences of the Charter of Rights

The purpose of this note is to report to you on our preparations to counter any sustained attack by the P.Q. government on the Charter of Rights and on the language consequences of the Charter in particular. A broad communications programme designed to present the benefits of the new Constitution as a whole has already been prepared, tested, and approved by Quebec ministers for use after the resolution has received parliamentary approval. This note reviews preparations for a federal communications strategy to counter any P.Q. campaign specifically on the linguistic consequences of the Charter of Rights.

Background

As you know, the P.Q. government has chosen to inaugurate its second mandate by adopting an aggressive posture on the question of Quebec independence and by launching a vigorous attack on the federal government. It is too early to say whether this aggressive stance reflects an authentic new policy direction and will be consistently sustained, or whether it is a short-term manoeuvre motivated by concerns about party management; by the need to preempt the party's radical wing and to maintain control of the December convention; and by a desire to distract the rank-and-file from more down-to-earth policy questions which would embarrass or constrain the cabinet.

Various scenarios for further P.Q. opposition to the constitutional resolution after the Supreme Court's decision have been suggested, including a debate and resolution in the National Assembly; a referendum, either on the resolution as a whole or on a limited aspect of it; or even an election. At this time it seems most likely that the P.Q. has a long-term scenario in mind, in which

the Constitution will become just one of a long series of issues and grievances. In this scenario, the P.Q. would seize upon every possible federal initiative (including the renegotiation of the fiscal arrangements, the expropriation powers of the NEB, the impact of the Charter of Rights, rising oil prices, etc.) in order to pound away continually at public opinion until it judges that sufficient impression has been made to justify the holding of an election on the issue of sovereignty. A "guerilla" campaign of this kind might last from one to three years or more, depending upon the results obtained.

Perhaps the only certainty is that the P.Q. will adjust its tactics to take advantage of any apparent shifts in the climate of opinion. It can be expected to monitor public opinion carefully and to hold a referendum or an "élection-référendaire" whenever its polling results appear sufficiently favourable. In the meantime, it seems ready to use every available occasion or instrument to create alarm and anxiety about the federal government's actions and to exploit this anxiety for its purposes.

Whatever course the P.Q. pursues, the federal government must be prepared to respond to any campaign designed to undermine the support of the Québécois for federalism and to reverse the decision of the referendum.

The Assault on the Charter

One of the main elements in the P.Q. campaign to arouse public opinion appears to be a carefully orchestrated attack on the Charter of Rights and its alleged impact in Quebec. This campaign was inaugurated shortly after the recent meeting of the party's Conseil national (at which the renewed drive toward independence was unveiled) with the publication on June 17 of the Quebec government's document "Conséquences de la Charte fédérale des droits sur les pouvoirs de l'Assemblée nationale et les droits du Québec" and of parts of the so-called "Pratte report"

on which it is largely but not wholly based.

The former document has two themes: that the federal government's constitutional resolution aims to:

- 1) "homogénéiser la société canadienne en attaquant directement les deux piliers qui font du Québec une société distincte: la langue et le droit civil";
- 2) "limiter, sans son consentement, les pouvoirs de l'Assemblée nationale".

In the weeks and months ahead, the P.Q. seems to wish to drive home the arguments in these documents through a public campaign. But the timing, nature and potential success of the campaign are not yet obvious. It should be noted that the documents were released at a time when a Supreme Court decision and parliamentary approval seemed imminent. Now that these have been delayed, the P.Q.'s own campaign seems also to have been stalled for the time being. Thus tours of the province's regions by six prominent members of the P.Q. cabinet were announced but seem to have been discontinued before they were scarcely begun.

Even if the campaign is not actively continued over the summer months, the P.Q. seems to intend in the long run to make a concerted grass roots appeal to specific target interest groups and professions with the intention of alarming them about the impact of the Charter on the Quebec government's ability to protect them through licensing policies, subsidies, language regulations, etc. Claude Charron has announced that Quebec's own human rights charter will be subject to review in the fall and this process will probably be exploited to manufacture conflict between the federal and provincial charters. It has also been suggested that the P.Q. may seek some way to strengthen Bill 101 that would heighten the potential for conflict with the federal charter and would be very difficult for the Liberal opposition to oppose.

Following a favourable Supreme Court decision and parliamentary approval, a new phase of the assault on the Charter could begin:

- 1) a resolution in the National Assembly may be focussed primarily on the Charter in order to attract the support of the widest possible number of Liberals, including Mr. Ryan;
- 2) Quebec may undertake a new series of court actions designed to prevent the federal Charter from applying in Quebec;
- 3) conflicts may be initiated, if necessary, between the federal Charter and prominent items of Quebec legislation, especially Bill 101;
- 4) if the courts can be persuaded to use the Charter to strike down key portions of Bill 101, and if public opinion is sufficiently aroused by this result, the P.Q. may decide to hold a referendum in which voters would be asked to choose, in effect, between the Charter and Bill 101;

It should be pointed out that, in choosing to wage a campaign on the issue of the Charter, the P.Q. is taking a considerable risk and is opening up potential ground for a successful federal counter-attack. The American concept of a Bill of Rights is popular in Quebec and a significant plurality of francophones (43%) and a majority of all Québécois (59%) support the entrenchment of a Charter of Rights in the new constitution. And 75% of francophone Québécois in a recent poll favoured freedom of choice for themselves in language of education, although only 22% thought the federal government should have the last word on language legislation. ~~(Some recent poll results are summarized in Annex "C" to this note.)~~ This would seem to be ground that is almost as fertile for the federal government as for the P.Q. If the P.Q. chooses to wage a campaign on this theme, it will have to be confident that the high level of support for Bill 101 can be converted into opposition to the Charter, perhaps with the help of a judicial conflict between them.

The success of this campaign is in no sense a foregone conclusion: initial newspaper reports of the regional tours by prominent ministers suggest they met considerable indifference and that the public is generally tired of constitutional conflict. Premier Lévesque admitted as much when he seized upon the energy security bill, saying: "People don't really care about patriation". The P.Q.'s greatest success so far has been with its own typical clientele (intellectuals and journalists) but this success does not necessarily widen the circle of support the P.Q. needs in order to obtain its goal. Even here there is some evidence the P.Q. may have stumbled by attacking the very idea of a bill of rights -- which many Québécois favour -- and by including among suggested potential impacts of the Charter on Quebec legislation many questionable or farfetched allegations which cast doubt upon the others.

A federal response

It is clear that the federal government should be prepared to respond to any sustained attack on the Charter, but after wide discussion among officials, it is our view that the federal government should not overreact, especially in the short term. Neither a P.Q. offensive nor a federal counter-offensive are likely to make significant headway during the lull of the summer months. There has been no indication from M.P.'s that they feel particularly vulnerable on the Charter or the language question. And the initial efforts of the P.Q. to foment concern about the Charter seemed to meet only limited public response. It now seems possible that the P.Q. will reserve its best efforts until after the Supreme Court's decision and parliamentary approval have been received.

Although certain initiatives can and should be taken immediately, it may be wise to wait until the P.Q.'s intentions are clearer, and the potential impact of its assault on the Charter can be more accurately assessed, before undertaking a very extensive communications programme.

In the meantime, however, the federal government has and should continue to put in place its own communications strategy to neutralize any campaign against the Charter of Rights, especially in the area of language policy. This strategy has two sides:

- 1) the positive message about the benefits of the Charter;
- 2) detailed refutation of P.Q. allegations about the Charter, as summarized in the Quebec document "Conséquences de la Charte fédérale ..." and in the "Pratte report" on which it is based.

An extensive advertising programme to convey the positive message about the Charter is already in place and ready for use as soon as the constitutional resolution has received parliamentary approval. It includes print advertising to be published in all dailies, weeklies and ethnic newspapers, and paid commercials on radio and television. The advertising campaign could be initiated earlier, but this would conflict with traditional practice and raises certain basic policy questions discussed below.

The detailed refutation of P.Q. allegations could be undertaken in three steps:

- 1) the preparation of appropriate documentation -- and its eventual distribution to M.P.'s, the press and other interested persons;
- 2) a communications programme involving key Quebec M.P.'s and Ministers; and
- 3) a distinct advertising campaign, or an expansion of the one already prepared.

1. Documentation

It is important that the government have available appropriate documentation as soon as possible:

- the Justice Department and FPRO are already preparing source documents analyzing the effect of the Charter or Bill 101 and other relevant Quebec legislation and refuting

where possible the allegations in the Quebec documents and in the Pratte report.

- On the basis of this analysis, CUIO is preparing more popular documentation ^{and speaking} notes for use of federal M.P.'s and any other potential spokesmen (e.g., provincial Liberals).
- This documentation should be available for M.P.'s and others before the summer recess.
- It is important that solid documentation be made available to the press in a low-key manner, without fanfare, as soon as possible, before the allegations of the Quebec government have time to take root as unquestioned assumptions. The swift distribution of appropriate documentation to correct information has proven successful in neutralizing allegations in the past (e.g., the "battle of the balance sheets"; the police chiefs' criticism of the Charter) and would no doubt be so again.

If material of a more general nature, is needed, other documents already prepared for use after parliamentary approval of the constitutional resolution could be made available. These include copies of the proposed Canadian Charter of Rights and Freedoms, a set of leaflets entitled The Constitution and you, Facts about the Constitution, Highlights of the Constitution and a brochure containing questions and answers about the Constitution.

2. The role of Quebec Ministers and M.P.'s

The participation of key Quebec M.P.'s and Ministers would be an important part of an information program to correct allegations about the Charter. Their presence among their constituents during the summer would give them an opportunity to present the positive argument for the Charter and to refute the suggestions in the Pratte report and in related Quebec documents if necessary. For this reason it is important to furnish them with appropriate documentation before the summer recess.

If a more systematic response were judged essential, a select number of MPs and Ministers could be called upon to meet informally with influential members of the Quebec media, with provincial Liberals, and with opinion leaders from the various groups identified in the Quebec documents in order to convey the essence of the federal Constitutional proposals and rebut the misinformation in the Quebec documents. Such meetings would provide first-hand knowledge of the reactions of such groups to the federal initiatives and to the Quebec government's arguments, and they would help to build a coalition of allies that could be called upon in any future contest in which the future of federalism was at stake.

If this side of the information programme were to be undertaken in a systematic way, it would require some one, perhaps a senior Quebec Minister, to coordinate the:

- o identification and recruitment of a select group of Quebec MP's;
- o distribution of appropriate documentation and briefing material
- o scheduling of meetings with media and with representatives of the groups identified in the Pratte Report and in related documents.
- o preparation of reports, as appropriate, on the reactions of media and group representatives

2. The role of Advertising

If the distribution of appropriate documentation and the role of Quebec M.P.'s and ministers in refuting P.Q. allegations about the Charter are judged insufficient, they

could be supplemented with paid advertising. In considering the use of advertising, however, two distinctions should be noted:

- 1) the distinction between the efficacy of advertising to convey a positive message and advertising to convey negative information or to refute allegations;
- 2) the distinction between advertising prior to parliamentary approval of the constitutional resolution and advertising after such approval.

On the first point, the allegations in the Pratte report and related documents are so speculative in nature that an advertising campaign would have difficulty coming to grips with them: it would be the equivalent of punching at air and would probably be ineffective. Furthermore, a federal campaign of this kind would draw attention to the very accusations that are to be countered, and it might encourage a counter-campaign by the Quebec government. The cumulative effort of both campaigns would again be to increase public awareness of the Quebec government's opposition to the Charter of Rights. This result would be the opposite of that desired by the federal government.

If for these reasons, it were decided to reserve advertising for the positive message about the Charter -- in the form of the campaign already prepared and approved -- the question of timing would remain. If parliamentary approval is long delayed, there may be pressure to launch this campaign before the resolution has been approved by Parliament. This would conflict, however, with the traditional assumption that government advertising should not be employed

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to defend legislation until it has ceased to be a party measure and has received full parliamentary approval. The issue would be compounded in this case if the resolution were also still awaiting decision by the Supreme Court.

For these reasons, it may be wise to focus our initial energies on the M.P.'s information programme and to reserve a decision on the use of the advertising programme until the intentions of the Quebec government are clearer, until the impact of its campaign against the Charter can be assessed, or until a Supreme Court decision has been delivered.

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Att.