

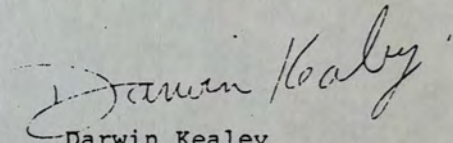
CONFIDENTIAL
WITH ATTACHMENTS

October 1, 1981

MEMORANDUM TO MICHAEL KIRBY

Please find attached the note to the
Prime Minister that you requested.

Russ is available to provide additional
information, if required.


Darwin Kealey

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October 1, 1981

MEMORANDUM TO THE PRIME MINISTER

Provincial Reaction to the Supreme
Court Decision to October 1, 1981

British Columbia

Premier Bennett has made few comments as Premier of B.C., preferring instead to act as spokesman for the eight dissenting provinces.

Following his meetings with the Premiers of Quebec, Newfoundland, Nova Scotia, P.E.I., and New Brunswick, Bennett said he still believes there is a possibility of a constitutional agreement. He has not formally taken the position that there must be a change in the federal position before such a meeting nor has he talked of any other pre-conditions. Bennett is clearly trying to take a statesman-like position; to sound out the other Premiers on their private position and to play a major role in forging a consensus. He will have met with all the Premiers (not only the dissenting eight) by next week.

Alberta

Alberta ministers have called for a resumption of federal-provincial negotiations. They suggest that the Prime Minister should begin by seriously considering the constitutional package to which the eight dissenting provinces agreed in April, 1981. They have indicated there would be room for compromise in the Alberta position but would not indicate in what areas. They did not rule out accepting a constitutionally entrenched charter in a scaled-down form.

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Saskatchewan

The reaction of the Blakeney government is best described as optimistic. Blakeney was careful to point out that, in his view, neither unanimous consent, as advanced by some provinces, nor unilateral action would be appropriate or realistic. A degree of consensus which is both constitutionally sound and workable, he notes, lies somewhere between these extremes and should be determined at the table.

This represents no change from Saskatchewan's previous position. The province wants to play the role of conciliator.

Manitoba

Premier Lyon has not moved from his initial position that the Court's decision "strengthened immeasurably" the province's position.

He stated the federal government should accept the dissenting Premiers' proposal of simple patriation with their amending formula, with the Charter and division of powers worked out after patriation. He sees no scope for any concessions at the bargaining table on the part of the eight dissenting provinces.

Ontario

Premier Davis returns to Toronto this weekend and will meet with Premier Bennett early next week. There has been no official change in the Ontario initial strong support for the federal position. However, a range of options are being prepared for Davis' consideration. While essentially retaining the support for the constitutional package, these proposals would soften the Ontario position in an effort to assist Premier Bennett in developing a compromise.

Québec

Le Québec demande essentiellement deux choses: que le fédéral mette fin à sa démarche unilatérale d'une part et qu'il renonce d'autre part à porter atteinte aux droits et pouvoirs de l'Assemblée nationale. L'opposition s'allie au gouvernement sur ces deux points.

Le Québec n'a pas défini ce que serait une Charte des droits qui lui serait acceptable. Il a cependant dit qu'il accepterait un rapatriement "accompagné d'une formule d'amendement acceptable", comme celle des huit provinces datant du 14 avril.

Enfin, le Québec presse le fédéral de reprendre les négociations "dans le respect des principes et des conventions".

New Brunswick

Premier Hatfield has made no public statement since his initial comment that the federal government can and should proceed with its constitutional proposal and that the other provinces should end their opposition now that the legal issue has been decided by the Court. He has urged "prompt action" by the federal government.

Prince Edward Island

Premier MacLean's position remains that constitutional change should come about only when there is a broad public and provincial consensus.

Following his meeting with Premier Bennett, Premier MacLean said that Ottawa would have to modify its patriation proposal before meaningful negotiations could take place. At those negotiations, the provinces would be as accommodating as possible.

Premier MacLean announced that he is leaving the country on October 3rd, for a month, thus confirming that the province will pay a much less active role until a new Premier is chosen on November 7th.

Nova Scotia

In keeping with his election campaign strategy, Premier Buchanan has avoided substantive comment on the constitution. After his Wednesday night meeting with Premier Bennett, Mr. Buchanan limited himself to saying that unilateral action "may be legal but is unconstitutional". He urged, as he did in the past, another round of constitutional talks.

Newfoundland

Premier Peckford has urged the Prime Minister and the ten Premiers to go back to the table and work in a spirit of conciliation and compromise.

The Premier has also called on Mr. Clark to reject to all-Party agreement on limiting debate and to fight the proposal with all his political might. Premier Peckford also echoed Premier MacLean's statement that it is up to Ottawa to make the first move to modify the patriation proposals to something more acceptable to the provinces and more in keeping with the spirit of the Supreme Court decision.

Michael J.L. Kirby