

SECRET

STRATEGY VIS-A-VIS THE PROVINCES
OVER THE COMING WEEKS

Issue:

Whether to make any approaches to the provinces in the coming weeks regarding possible negotiations on the constitutional package.

Factors:

- The objective interest of both the federal government and the dissident provinces in further constitutional negotiations will be strongly influenced by their respective estimates of their chances in the Supreme Court. The Quebec Court decision will be critical in this: if the federal case wins clearly, the provinces would be more inclined to deal. Both sides will also be strongly influenced by the reception they are given by the Supreme Court on April 28.
- Fruitful discussions would be very unlikely before the Quebec election and the Quebec court case. The window between the Quebec court's decision and the Supreme Court hearing is probably too small for any real negotiations. Thus the time when real negotiations might start would be after the Quebec election and court decision and the Supreme Court hearing.

- The dissident provinces are likely to launch a political counter-offensive around their alternative formula. The Government's decision on whether to explore the possibility of new negotiations will depend on (1) whether it considers the provincial formula an acceptable basis for negotiations and (2) how flexible it considers the provinces to be.
- Should Ryan be elected, the political counter-offensive may centre on him, but this would almost certainly involve slippage well into May.

Consideration:

Clearly the pros and cons of an approach to the provinces will depend both on the way in which it is done and the context at the time. The following list is thus more indicative than definitive:

Pro

- Would demonstrate federal preparedness to respond to first concrete provincial offer since October.
- Might open the way for real agreement and thus (a) avoid the risks of the present approach, and (b) create a much greater consensus and legitimacy around the constitutional change.
- Would bring the dissident provinces into contact with the federal government so that their strategy could not develop independently.

Con

- Risks undercutting legitimacy of Parliament's political act and the finality and political legitimacy of a favourable Supreme Court decision.
- Danger that no agreement could be reached in any case, but with federal government more exposed after renewed round of unsuccessful talks.
- Possible loss of control over timing. It could prove more difficult to break off negotiations and proceed to Westminster quickly after a favourable court decision.

Conclusion:

- Hard to see much point to opening contacts before Supreme Court hearing.
- After that situation could be looked at again. Side most anxious for talks will be that which is most pessimistic about court. However, even if federal government is optimistic, it might have some interest in talks if it felt confident it could get an acceptable deal.