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JEAN CHÉZENY'S TOUR OF PROVINCIAL CAPITALS

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May 25th, 1980

MEMORANDUM FOR THE PRIME MINISTER

Mr. Chrétien's Tour of Provincial
Capitals

--- This note provides our general sense of the position and attitudes of the provinces. More detailed summary reports of our discussions with each province are attached as an annex. It is our intention to provide you with a memorandum Tuesday evening which explores the impact of this and other relevant information on the Government of Canada's constitutional reform strategy. We will also prepare a draft letter to the Premiers.

We have organized our comments under three headings: first, the mood in provincial capitals; second, the views of provincial Premiers and ministers concerning the process of constitutional discussion; and third, their views concerning the substance of constitutional reform.

Mood

There is an obvious heightened awareness of the significance of the constitutional dossier and a realization that the time is ripe to make some rapid progress. While some Premiers had doubts or raised questions about certain aspects of the process, none questioned the necessity of proceeding with dispatch.

The provinces are clearly edgy about the federal government's intentions, given the order of business as it was advanced by us. They are concerned to avoid putting themselves in a position in which they help the federal government to meet its objectives without receiving reciprocal assistance from the federal government.

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The general reaction to the Quebec referendum is mature and very healthy. There is a sense of relief and a manifest desire to move quickly to resolve Quebec's constitutional concerns, but at the same time an insistence that the needs of the rest of the country and of the other provincial governments be addressed as well.

Process

The following conclusions may be drawn from the meetings that were held:

- An early meeting of First Ministers is desirable. June 9th is a feasible date.
- It is very likely that some agreement could be reached at that first meeting on a dedication to Canada and a commitment to rapid constitutional change, and on a timetable and an accelerated process of constitutional discussion.
- It is possible that agreement could be reached on a general statement of the principles underlying the Canadian federation and its constitution.
- It is possible that agreement in principle could be reached on the entrenchment of fundamental rights, and somewhat less likely that there could be agreement in principle on the entrenchment of language rights.
- Rapid progress on any of the above is dependent on the federal government agreeing to include as part of the first wave of constitutional discussion those relatively few items which are of the highest priority to the provinces.
- The provinces clearly expect that the CCNC instrument, or some version thereof, and the "first list" (perhaps as amended at the last CCNC meeting in Halifax in October 1979) will define the process and content of the first phase of constitutional reform.
- There will be great difficulty in securing provincial agreement to any process which involves dealing definitively with "federal" items first, and only after that turning to the items which most interest the provinces. What most provinces

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have in mind is a package of reforms which contains something for each participant and which each can defend before his own constituents.

- A federal referendum, as might have been expected, occasions disquiet and in many cases strong resistance. The clear impression we received is that early discussion of such a matter, far from encouraging serious bargaining, would elicit strenuous opposition and would put the possibility of rapid progress seriously at risk. Premier Davis' comment is perhaps the most illuminating, since he is not opposed to a federal referendum in principle; he expressed the fear that, for example, a referendum on the entrenchment of language rights could be lost in Ontario, even with the support of the provincial government. On the other hand, no one could answer what should be done if ultimate agreement cannot be reached through the process of negotiation.

Content

The following conclusions may be derived from the meetings:

- If provinces are to participate creatively in the discussions, items of interest to them must be on the table for negotiation.
- For many provinces, including such critical ones as Alberta, Saskatchewan and Newfoundland, the division of powers lies at the heart of their constitutional concerns.
- British Columbia will cling tenaciously to the objective of upper-chamber reform.
- There is perceptible movement in the right direction on language rights, on the part of Manitoba, Nova Scotia and Newfoundland. Indeed, the federal government's concerns (the principles, the Charter of Rights and language rights) are more and more widely accepted — even if, in some cases, grudgingly — by the provincial governments. What they wish to be assured of is that their concerns will be met.

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These are the conclusions which we are able at this stage to draw from our tour of the provinces. Quebec, as you know, has been excluded from these considerations, since we were unable to meet them. Quebec aside, however, I think it is fair to say that Mr. Chrétien's discussions with provincial Premiers give grounds for qualified optimism about the prospects for cooperative inter-governmental achievement of constitutional reform.

Mike

Michael Kirby

DRC:fg

Attachments

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N O T E

The reports are presented in the order in which the provinces were visited.

In most cases the Premier led the discussions and was accompanied by a number of ministers and officials. In Alberta the Premier attended a small portion of the discussion, but participated minimally in the discussion.

The meetings lasted at least an hour and a half, and in some cases (Ontario, British Columbia and Nova Scotia) a good deal longer than that.

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ONTARIO

General Attitude

Very positive, accommodating, and strongly in support of federal leadership.

Process

Premier Davis underlined his belief that the federal and provincial governments had to move quickly to capitalize on the momentum and enthusiasm that currently exists. He was fully in agreement with pushing ahead with an early meeting of first ministers ("tomorrow, if possible"), and was clearly concerned that the attention and interest of Premiers would wane as time passed and other issues crowded in on them.

Premier Davis thought it was unlikely that quick agreement could be reached on a comprehensive package of constitutional reform (including, for example, a revision in the distribution of powers), and was prepared to support a limited package as a first step.

He indicated he would be prepared to use his influence with appropriate provinces to try to help the process along, and would await further suggestions from his colleagues at the federal level.

Content

As for the substance of constitutional discussion, these were the main points which Premier Davis made:

- Ontario believed it was essential to maintain a strong central government.

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- Substantial movement on a bill of rights is possible.
- Some movement on the entrenchment of language rights is possible. Ontario would accept the constitutional protection of certain minority language rights.
- Ontario, obviously, can accept unilateral patriation, although Premier Davis acknowledged that that seemed to cause others considerable problems.
- There is not much short-run prospect of agreement on an amending formula. Ontario accepts the idea of patriation without an amending formula, although that would imply the interim acceptance of the unanimity principle, about which Ontario is not particularly keen. However, it may be necessary for a period.
- Premier Davis feels ambivalent about proposals for reforming the upper house, and would not want to see any change which would inhibit the central government's decision-making powers.
- The Supreme Court 'can be handled'. It is not clear what that meant.
- Entrenchment of the principle of equalization is widely accepted.
- Completion of the process of family law reform looks quite possible.
- The preservation of the monarchy is pretty important in Ontario.

During subsequent discussion, other points and comments were made:

- Ontario representatives appeared to accept the argument advanced by Mr. Chrétien that we should not be involved in a straight bargaining process at the beginning, but should be a consensus on what steps are necessary for the good of the country as a whole. The hard bargaining can come later, in the second round.

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- The question of a federal (or national) referendum was discussed in general terms. The Ontario representatives evinced no horror at the prospect, but were concerned about its advisability and efficacy. Their preference was for unilateral federal legislative action, without recourse to the referendum instrument, should a unilateral step be deemed necessary. They were worried about the danger of a referendum backfiring in a given province, even if that province supported it (e.g., linguistic rights in Ontario).
- Mr. McMurtry expressed what he assumed was a minority opinion, that we ought to be looking closely at something pretty dramatic for the Senate, such as turning it into an elective body. The notion did not attract much support at the meeting from his colleagues.
- The Ontario representatives appeared to be sympathetic to the idea of seeking accord on basic principles, although it was not certain that they fully understood what was being considered.

(See two attached documents for an indication of current Ontario thinking.)

ONTARIO

- . patriation
- . amending formula (similar to Victoria)
- . fundamental }
 democratic }
 legal } rights (as per CCMC position)
- . linguistic rights
 - minority language education guarantee across Canada
 - right to criminal trial
- . family law
- . equalization/regional development
- . freedom of movement of goods/services/capital/persons
- . cable communications
- . legislative delegation

ONTARIO PRINCIPLES

1. Measures to eliminate barriers to the free flow of people, goods and services across the country so as to enhance the economic ties within Confederation;
2. A more precise definition of the essential powers needed by the federal government to run the national economy;
3. A clearer provincial responsibility in social and cultural matters, such as family law and cable communications;
4. The clarification of provincial ownership and legislative powers over natural resources;
5. A clear commitment to the enlargement of regional economic opportunities as a goal of Confederation and as a test of national policies;
6. Provisions that would allow for more flexibility in certain areas of jurisdiction so that some provinces, such as Quebec, could take on more responsibilities than the others if they so desired;
7. A provincial role in determining when the federal spending power could be exercised in areas directly affecting the provinces;

8. The entrenchment of the fundamental and democratic rights of Canadians;
9. The recognition of English and French as the two official languages of Canada, including the entrenchment of the right to minority language education in all provinces;
10. The reform of existing national institutions such as the Senate to allow for the fuller expression of regional or provincial interests;
11. Provincial participation in the appointment of judges to the Supreme Court of Canada; and
12. Patriation of the Constitution and a relatively flexible formula for constitutional amendment.

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MANITOBA

(The first part of the meeting occurred in the absence of the Premier.)

General Attitude

Reserved, but pleasant, skeptical about the possibility of moving with great rapidity, not overly concerned with seizing the moment. (Mr. Bedson seemed more concerned with this last point.) Their willingness to compromise could not really be assessed from what was said. Judgments about Manitoba's position must be tentative, because the two-way communication was not as clear as one might have wished.

Process

While there was some recognition of the need to move rapidly, especially on the part of Mr. Bedson, the dangers of excessive haste were underlined. Mr. Gerald Mercier was concerned to ensure that any meeting of first ministers that was held not fail, and he suggested that some fairly detailed advance preparation (e.g., bilateral talks, perhaps using Roy Romanow or the CCMC) be undertaken. He was not concerned that the elapse of 3-4 months would seriously reduce the chances of reaching agreement.

As to the process that might be employed in the longer term, and the possible need to break a deadlock, perhaps by way of a federal referendum, Mr. Mercier advised caution. He believed that the C-60 approach elicited provincial opposition more on the grounds of the process than on the grounds of substance.

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The Manitoba representatives were concerned to know how the Government of Quebec would play in all this, although they appeared to be of the view that Quebec had little choice but to play ball as best it could.

They took the view that a meeting of first ministers, if it is to reach agreement, should take place in private.

Content

Discussion of the substance of constitutional discussions was a trifle aimless. There was little concrete or specific reaction to the substantive points (principles, bill of rights, language rights, etc.) outlined by Mr. Chrétien.

Mr. Mercier made the general point that Manitoba, in his judgement, was closer to the position of the federal government than was any other province. They are much less exercised by the declaratory, reservation and disallowance powers, than are the other provinces.

Certain topics of constitutional discussion (such as equalization, family law, Supreme Court, communications, upper house) were passed in review, and the need for compromise on all sides was recognized.

The latitude for compromise on Manitoba's part in the area of the bill of rights and the entrenchment of language rights, however, was not clear. It may be that a greater willingness to compromise seemed to be the case on the surface, but the discussion was not far-reaching enough to reveal whether that was so. The report on Premier Lyon's contribution below helps to clear this point up. Mr. Mercier pointed out that Premier Lyon's position on a bill of rights was clear and well-known, and noted in the course of discussion that if agreement was to be reached it would have to be on a package substantially less than that contained in C-60. He also noted that Manitoba now had provision for entrenched language rights since the Supreme Court decision, but gave little clue as to what Manitoba would be seeking in constitutional discussion of this item.

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Mr. Mercier identified the lack of an amending formula as a major stumbling block to change, and appeared to attach high priority to securing agreement on that, early on in the process of constitutional discussion.

Premier Lyon's meeting with Mr. Chrétien

After the discussions reported on above, Mr. Chrétien met with Premier Lyon.

Regarding the process, Premier Lyon felt that, if there were to be an early meeting of first ministers, it should aim to produce an agreed upon time schedule — but not a set of artificial federally-imposed deadlines à la C-60. He reckoned it would be very dangerous for the country if the federal government moved unilaterally, particularly in the teeth of provincial opposition. He is strongly opposed to the notion of a national referendum, principally on the grounds of it being an undesirable instrument for the making of public policy. He thought that it would be important to have the first ministers continuously involved in constitutional discussion, and not just brought in every six months or so.

As to points of substance, he continues to be opposed as a matter of principle to the entrenchment of rights, holding "a common-law lawyer's" opposition to the idea of judges making public policy decisions. He used the U.S. Supreme Court bussing decision as an example of what to avoid. (We received some informal sense that he would not want to be left out alone in constitutional discussion, and would accede, even on the question of entrenchment, if the consensus in favour of it was clear.) Premier Lyon indicated that he was prepared to support the entrenchment of linguistic rights by amending Section 133, and appeared to imply that he could be brought around to supporting the entrenchment of language-of-education rights. On the amending formula, he thought the mechanism should be closer to Fulton-Favreau than to the Victoria Charter.

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SASKATCHEWAN

General Attitude

Sympathetic to the desire to obtain rapid movement, but tough-minded in their analysis of the requirements of the provinces and the absolute necessity of ensuring that the objectives of all the major participants in the discussion are met. They clearly wish to move the process along, but will insist that Saskatchewan's needs be accorded as much priority as anyone else's. There is little sign that they are prepared to see Quebec's or Ottawa's perceived objectives satisfied, and then leave it at that.

Process

Premier Blakeney was clearly willing to attend an early first ministers' meeting, although he found what he took to be the federal government's expectations for that meeting to be overly ambitious, and did not believe that some dramatic public accomplishment had to be made at that first meeting. He was also opposed to any process that involved starting anew and any process that made it possible for Ottawa to get its requirements formally satisfied before the concerns of others were addressed.

As was evident from the Premier's telex, Saskatchewan is in favour of reactivating the CCMC and the discussion of the first-list items. They would have no objection to sharply accelerating and intensifying the process to achieve early results.

Premier Blakeney reiterated his view that the first meeting should smoke out Lévesque to find out whether or not he is going to play ball, separate out the constitutional and oil pricing talks, and deal with the issue of native participation, a matter which clearly concerns Saskatchewan a good deal.

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They spoke very forcefully about the need to aim for a package deal which each participant can defend before his own constituency. How do you expect Brian Peckford to accept entrenching language rights if you don't give him something on off-shore resources? Division-of-powers matters have got to be part of the deal. Premier Blakeney warned the federal government that, if it tried to ram language rights through without provincial support, it would fail: "They won't ram". He said you might get a charter of human rights through alone, but he would strongly recommend against trying. As to unilateral federal patriation, that might work, although Prime Minister Thatcher might find reasons to delay if seven or eight provinces opposed it.

Premier Blakeney said that he gets criticism in his own province for not being tough enough on resources and for being too soft on language rights and metrication. He must have, in any constitutional settlement, something which he can defend in his own province.

Is a package deal possible in a reasonable period of time? Premier Blakeney thinks it is, with three caveats: first, he has no reading on how Quebec will play it; second, it will be very hard to get agreement with Alberta on resources; third, British Columbia is aggressively committed to its upper-chamber idea, which has little support elsewhere. What if agreement cannot be reached in a reasonable time? He acknowledged that that was a difficult question, and did not suggest how it might be answered.

Substance

While most of the discussion was about process, the following points on substance were made:

- Natural resources. Alberta, Newfoundland and Saskatchewan take the view that resources are their ticket to Confederation. Saskatchewan needs one thing out of the constitutional discussion: satisfaction on natural resources. "That's all we need." This means the right to control production and to tax directly and indirectly, subject to compelling national interest. And no one is suggesting that Ottawa should be restricted in its taxing power over resources. The constitution is not the real issue there; it is a question of political will.

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- Rights. Saskatchewan is in favour of entrenching language rights, and would accept entrenching human rights as a part of an overall package.
- Amending formula. Agreement would be tough, but possible. Look at the Toronto formula, which specified that certain things would require unanimity, but not all.

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ALBERTA

General Attitude

Polite, but cool and very circumspect. They were evidently concerned about the issue, anxious to learn what the federal government had in mind and to communicate their positions to the federal government. Given his normal operating principle, Premier Lougheed's brief appearance at the meeting perhaps suggests the importance the Government of Alberta attaches to the issue. Mr. Johnson questioned Mr. Chrétien on certain specific constitutional issues, and seemed to be probing to discover whether the federal initiative was a p.r. exercise, a genuine effort at consultation or a way of advancing a hidden agenda. The Alberta and federal delegations sat on opposite sides of the table, unlike all the other meetings. Most of the Alberta representatives had copies of Harmony in Diversity in front of them.

Process

The question of Alberta's attendance at an early first ministers' meeting was not entirely clear for the following reasons. Members of the federal delegation understood Mr. Lougheed to say that he would be prepared to consider whether his attendance would be advisable; Mr. Johnson, his Intergovernmental Affairs minister, however, interpreted him as saying that Alberta would definitely attend such a meeting. Mr. Johnson proceeded on that assumption during the balance of our discussions with him.

In general, however, they seemed to be in favour of proceeding with constitutional discussion as rapidly as is feasible. They indicated that the first meeting should review where things now stand, and should start up the process again, based on the February 1979 best-effort drafts. It should also establish the tone of future discussion.

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Mr. Johnson indicated that Alberta was hopeful that progress could be made, but that the objective must be agreement on a package of reforms which would include division-of-powers items, and specifically resources. He pressed Mr. Chrétien on the resource question and, without actually saying so, made it clear that Alberta could not participate in constitutional discussions which excluded the resource question. Somewhat later in the discussion he stated flatly that Alberta has no intention of making trade-offs, but will approach each item on its merits. He expressed the view that the will is there to complete the package. He proposed that first ministers start with the division-of-powers questions and proceed after that to such issues as fundamental rights. He referred Mr. Chrétien to the recent communiqué of western premiers.

Substance

More time was spent in probing for the federal position on certain items than in indicating theirs. However, in addition to the points on resources and division of powers indicated above, the following points were made:

- Patriation and amendment: The principle of unanimity was of fundamental concern to Alberta. What was the federal government's view?
- Principles. Some progress on general principles might be made at the first meeting.
- Proportional representation in the House of Commons. Alberta is strongly opposed.
- British Columbia - style upper House. Alberta is strongly opposed.
- Provincial representation on federal boards. Alberta is very much in favour. It was not clear what their view was on the idea of federal representation on provincial boards and regulatory agencies.

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BRITISH COLUMBIA

General Attitude

A very friendly reception. The general mood was one of provincial and federal colleagues working together to find the best way through the constitutional maze. Concerns were raised in order to help facilitate the process, and not in any disputatious or confrontational spirit.

Process

One general point that was clearly worrying Premier Bennett was the possibility that Quebec's referendum had served to give national salience to Quebec's grievances; this might mean that the preoccupations of other provinces, such as British Columbia, might get short shrift. Quebec's problems cannot be the only ones that get solved.

If there is to be an early meeting, Premier Bennett will attend and he would prefer that it is private. However, he expressed reservations about holding a meeting of first ministers in the very near future. He thought that, if it went badly, you could lose a good deal of headway, and he suggested the following alternative. First, there would be an early meeting of ministers responsible for the constitution to get the process under way. Second, there would be the Premiers meeting (presumably in the fall) to confirm the results and the progress that had been made.

Premier Bennett expressed the view that people want to settle and the time is therefore ripe for progress to be made. Why does he prefer his process and timetable? He mentioned the danger of making a false step, but in addition to that point there are two other possible factors which were not explicit in the discussion.

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First, he alluded to the risk of isolating people. No doubt he had himself and his upper-house proposal in mind, and it may be that he feels that his proposal is more likely to get a decent hearing with his suggested process, since the upper house is on the short list for intensive review. Second, Mr. Ryan supports an upper house concept similar to his own and he may feel that he would be closer to having an ally in the councils of the federation if the meeting of first ministers is postponed until the autumn.

The British Columbia representatives said that British Columbians had become much more interested in the constitution as a result of the referendum debate and the government now had a more critical and vocal constituency watching and assessing their performance on this front.

A federal referendum would be very dicey indeed. Quebec, Newfoundland, Alberta and British Columbia are the trouble spots on this score. One really needs to secure the agreement of the eleven governments.

Substance

Less time was spent discussing substance. However, the general point about western alienation was made, and about the consequent need for representation at the centre. Premier Bennett argued that their upper house proposal was the lynch pin of reform that connects with everything else. Thus, he found it difficult to address other issues creatively without knowing how the upper house issue was going to be resolved. He was most anxious to ensure that it receive open-minded and detailed consideration.

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PRINCE EDWARD ISLAND

General Attitude

Sympathetic to the need to act, but cautious about the expectation that substantial results could be rapidly achieved. Premier MacLean was apprehensive about the attendant difficulties and about the disappointment which unrealistically high expectations might suffer. He recognized that there was a momentum currently which should be capitalized on.

Process

The Premier was not opposed to a meeting as early as the 9th of June, should it be thought that some useful work could be done, but he was concerned to emphasize that first ministers must be understood to be attending without in any way prejudicing their bargaining position. Attendance could not be taken to imply prior assent.

It was pointed out by Prince Edward Island that the first meeting was crucial, and that its success would depend heavily on the premiers being fully informed in advance and in detail about the organization, object, and agenda of the meeting. Was each Premier to bring his shopping list of things to discuss? Should it be a meeting of the eleven first Ministers alone, or accompanied by one or two people? Etc. This point in their view applies equally to the process that follows on from the meeting.

Content

The Premier made the general point that Confederation often seemed to those outside the centre to be concerned and operated for the benefit of Ontario and Quebec. The smaller

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provinces were looking for some recognition of their specific problems on the part of the federal government and central Canada.

The following specific points were made:

- They support constitutional expression of the principle of two official languages, but are concerned that the consequent arrangements be practical and workable.
- They support Manitoba's position on family law.
- With respect to any possible Senate reform, they are interested in the principle of equal provincial representation.
- As a small province, they are concerned that a strong central government be preserved in any constitutional reform.
- The principle of the redistribution of wealth is primordial for them, and its constitutional expression is a major objective for Prince Edward Island.

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NOVA SCOTIA

General Attitude

Very warm and encouraging and most sympathetic to the overall objectives which Mr. Chrétien outlined. Indeed, some significant movement on language rights was voiced by the Premier for the first time in the course of the meeting.

Process

Premier Buchanan stated that time could be our enemy, if we were not careful, and he was heartily in favour of holding a meeting of first ministers as early as possible. He was very optimistic about the progress that could be made, stating that he was almost certain that agreement could be reached on two or three constitutional items. He was in favour of a private meeting which would deal with general principles and a few specific agreements, and which would also set in train future constitutional discussions. He noted that an all-party constitutional committee in Nova Scotia had been at work for some time, and he expected that a fairly comprehensive position would be established when the committee reported by the end of the summer.

Substance

As for the topic of constitutional discussion, the following points were made:

- Language rights. In a significant shift of position, Premier Buchanan made it clear that his government was now prepared to contemplate constitutional entrenchment of minority-language education rights. He returned to this point

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Content

They are prepared to see a preamble, a charter of human rights and language rights composing part of an overall package of constitutional reform and they saw themselves as being more accommodating in these matters than they were before.

However, for them the heart of the matter lies in the division of powers and in the relative status and position of the provinces and the central government. Premier Peckford emphasized that securing greater control over the levers of economic development (and hence an alteration in the division of powers) was the only way in which Newfoundland could hope to improve its position appreciably.

He said that people elsewhere in Canada seemed to think his objective was to improve the well-being of his province at the expense of other provinces. Not at all. Let us say that on a "wealth ratio" of 1 to 10 Ontario is at 8. Newfoundland does not want to pull Ontario down, but to increase Newfoundland's position from 3 to, say, 5 or 6.

Thus, the fundamental issues for them are natural resources and the fishery, and they contend that resolution of these issues is a matter of putting bread on the table of Newfoundlanders, and hence is more fundamental or basic than, say, manipulating national political institutions.

- Off-shore resources. Their position is well known, but the essence of the point they made in discussion is that these resources should be treated, with respect to Newfoundland, in the same way as Alberta's resources are treated; ownership is not in question for Alberta, but it is for Newfoundland, and without ownership they have little bargaining power vis-à-vis Ottawa and the rest of the country. In addition to ownership, of course, they want to ensure that Newfoundland gets "the front-end benefits of development". Their case on off-shore resources was presented eloquently and at length. It was clear that they detect little sign of flexibility on the part of the federal government in this matter.

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- Fisheries. Unlike Nova Scotia, they see this as a constitutional issue. Premier Peckford seemed to believe that some progress had been made on the question of shared jurisdiction at the CCMC. They believe that greater provincial control would ensure that the benefits would be more likely to come to the province, and that management of fishery activity would be rendered consistent with the needs of the provincial economy and with other regional economic activities. They are clearly concerned about the inter-relationship between offshore oil and gas development and fishery management. On the northern cod stock issue, they presented a radically different interpretation from that of Nova Scotia, arguing that the issue was not Nova Scotia participation, but management and "the transfer of cod stock resources" — presumably, this last point referred to the question of processing.
- Patriation and amendment. They are not hung up one way or the other on this; they are prepared to see it resolved if possible, but don't attach high priority to it.
- Management of overlapping activity. Premier Peckford emphasized the importance of the grey areas of the division of powers, where both orders of government had roles and responsibilities: He thought that it was important to develop a process which would permit the efficient resolution of disputes involving overlapping jurisdiction.

(See the attached list indicating Newfoundland's top priority items for constitutional discussion.)

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NEWFOUNDLAND

General Attitude

Premier Peckford expressed a clear sense of urgency and a desire to get on with the job of constitutional reform as rapidly as possible. This feeling was obviously based on his wish to obtain satisfaction of his concerns, but it translated into a willingness to accept and support matters which were of particular concern to the federal government or to some other provinces.

Process

The Premier is very much in favour of an early first ministers meeting and he would not oppose beginning with principles and the question of rights, subject to one condition, namely, that Newfoundland's concerns be part of the overall package that is to be put together, and that no final agreement is made on any single item until the full package has been worked out and accepted.

They are clearly very fearful that agreement seriatim would undermine the federal government's will to proceed, once its concerns had been satisfied. Premier Peckford, while accepting the order in which the items which were said to be "easier to get agreement on" were, in fact, the concerns of central Canada; the tougher items, that were to follow later, were the preoccupations of "outer" Canada.

The Newfoundland representatives argued that, if the federal government could get the provinces to agree in principle to a preamble and to fundamental and language rights, 50% of its objective was realized, and it would then be political suicide for any Premier to try to back out of the deal. Hence, their anxiety. They are very skeptical about whether Ottawa has the political will and the flexibility necessary to secure comprehensive constitutional reform.

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twice in the discussion, and his colleagues in the Nova Scotian government who were present were surprised and pleased by his statement. The Premier declared that he thought the Acadian population had been well treated by the provincial government in recent years, and that at times the government did not get much credit for the things it was doing (e.g., erecting bilingual traffic signs in areas of the province with a heavy Acadian population.) He also mentioned the need for federal financial support of minority-language education.

- Equalization. Nova Scotia regards equalization an important principle and would be seeking its constitutional expression.
- Fisheries. Nova Scotia sees no constitutional issue here. The federal government should allocate fish-stock quotas and the historical rights of Nova Scotia and Newfoundland fishermen should continue. They have been doing some research to establish their traditional claim to the northern Newfoundland cod stocks. (They acknowledged that Newfoundland views the issue quite differently, and, indeed, we were treated to factual statements in St. John's directly at variance with factual assertions made in Halifax the night before.)
- Off-shore resources. The Premier stated that Nova Scotia was not hung up on the question of ownership, but the federal-provincial agreement, made under the Regan regime, is no longer satisfactory, and the province was now seeking regulatory powers in its own area of jurisdiction, leaving Ottawa to regulate federal matters. Having one Nova Scotia member on the six-person management board administering off-shore activity (three federal, one New Brunswick, and one Prince Edward Island) was no longer satisfactory, particularly in the light of the promising gas finds at the venture drilling site off Sable Island. Not only that, but the 75-25 revenue sharing arrangement, while superficially generous, was not on closer inspection as generous as it seemed, nor was it satisfactory.

May 23, 1980

ITEMS WHICH NEWFOUNDLAND
CONSIDERS OF TOP PRIORITY
IN ANY CONSTITUTIONAL DISCUSSIONS

- Offshore Resources
 - Fisheries Jurisdiction
 - Charter of Rights
 - Linguistic Rights
 - Resource Ownership & Interprovincial Trade
 - Equalization & Regional Development
 - Control of Broad Federal Powers
e.g. Declaratory Powers
 - Amending Formula & Patriation
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NEW BRUNSWICK

General Attitude

Premier Hatfield was very sympathetic to the objectives of the federal government and quite willing to proceed along the lines outlined by Mr. Chrétien, should that seem advisable. His comments were devoted primarily to testing the adequacy of the process and identifying stumbling blocks in it.

Process

The Premier fully agreed with the need to sustain a sense of urgency and to find ways of ensuring that the eleven governments apply themselves with energy and tenacity to the task at hand. He agreed that an early first ministers meeting should be held and that it should be private. He also thought that future meetings should be private, if serious negotiation was to take place, and that a declaration to that effect at the start of the process by nine or more of the heads of government ought to be enough to make it stick.

As to the most effective process, Premier Hatfield expressed little faith in the setting of firm deadlines far in advance; people were inclined to ignore them and not to take them seriously. More important, he believed, was a commitment to a regular series of meetings which would continue inexorably until the job is done; at the end of each meeting there should be a date formally settled on for the next meeting so that everyone knows what he is working towards.

.... 2 /

SECRET

He expressed the view that it was important the Prime Minister keeps a bit above the battle in the course of these negotiations and that he assume a role like that which he adopted during the referendum campaign.

He was concerned about the role of Premier Lévesque and Mr. Ryan. If one took patriation and amendment, for example, both have expressed views on the circumstances in which patriation might properly occur; if these circumstances are not met, but patriation is proceeded with, what then?

Content

There was little general discussion of the substance of reform and no discussion of specifics. Two general concerns were voiced:

- Ontario's position and role were crucial; it saw its interests lying very much with those of the federal government. There was a real danger that any signs of the federal government leaguings with Ontario against the rest of the country would knock the constitutional talks off the rails. A Queen's Park-Ottawa pact, then, was something to be avoided.
- Canada was facing serious and extremely difficult negotiations on the constitution, on energy and natural resources, and on federal-provincial fiscal arrangements. It was difficult to see how these three could be kept apart, and even more difficult to see how they could be brought to a successful conclusion if they were allowed to come together.

DRAFT

CONFIDENTIAL

May 20, 1980

MEMORANDUM FOR THE PRIME MINISTER

M. Chrétien's meetings with
Provincial Ministers this week

We have so far been in touch with the four Western Premiers and Ontario about this series of visits; the remainder will be contacted today or, in Quebec's case, tomorrow.

Each of the five provinces we have contacted has indicated that at least the senior minister concerned will be able to see M. Chrétien. There is some prospect that in each province, the Premier will also be available. This seems most likely in Manitoba, which is appropriate because Mr. Lyon will be the host of the Premiers' Conference in August.

The schedule for the first phase of M. Chrétien's journey will take him to Toronto on Wednesday evening, May 21 and then westward from Winnipeg to Victoria during the day on May 22. If possible, he will see the ministers in one or more of the Eastern provinces on Friday, May 23. Those provinces we are unable to see by the end of the week, I would visit on Monday. We will make a special effort to arrange meetings in Quebec and Newfoundland for M. Chrétien on Friday.

-- As you have requested, we have drawn up a scenario for his meetings and I am attaching a copy for your consideration and approval.

.../la

The scenario would be the same whether there is a "no" victory or a "yes" victory except that in the event of the latter, Mr. Levesque would presumably not come to a First Ministers meeting and that the first, unpublicized (in advance) item of business for the First Ministers would be a formal public rejection of Sovereignty-Association.

There are a few features of the "script" which warrant special comment and which you might wish to consider with particular care.

- (1) The key issue with which you and M. Chrétien will have to deal, in proceeding along the lines now generally decided, is how to convince the Premiers that the federal government means business when it says it is ready for change and will press on with it until the job is finished. It is also essential that the provinces believe that the federal government is willing to compromise on some of its previous positions in order to reach agreement on necessary change.

Put another way, the provinces need to believe that the federal government is seeking the good of the country as a whole and its people, rather than simply protecting its own interests; that the federal government is seeking constitutional change which will promote the national interest rather than merely the federal interest.

It is for this crucial reason that the scenario does not envisage making any demand or suggestion that patriation, with or without an amending formula, be included in the first order of business. Rather, this is left for the "priority list", on which it is to be hoped, work will start not later than the early fall.

For this same reason certain "federal" items, including Powers affecting the Economy, Natives and the Constitution and the Supreme Court, would be high-lighted as future, rather than immediate, priority items during M. Chrétien's meetings. In this way, the provinces will know that the federal government wishes to see other major changes in the constitution (apart from the Bill of Rights) and would accordingly be more ready to believe that the federal government has a strong interest in continuing the negotiations even after a Bill of Rights has been agreed and, one hopes, entrenched.

- (2) As you of course know, it will be very difficult, on the basis of one meeting, to persuade the provinces to agree, even in principle, to the adoption of the Bill of Rights. They will need an incentive in addition to the "good of the country" or the aura of a Quebec vote for Canada. They have their own interests apart from these global concepts and these interests need catering to. We therefore propose, as you will see on page 3, that an early meeting of First Ministers not be made explicitly conditional on there being agreement in principle on adoption of the Bill of Rights as the #1 priority. The provinces are offered both a meeting of First Ministers and the promise that the priority list (concerning some of their items as well as some federal ones) will be dealt with beginning early in the Fall.
- (3) M. Chrétien's visits could thus be judged a success if the following conditions are met:
- (a) the Bill of Rights is accepted as the priority item by most provinces and they indicate that they are ready to negotiate it in detail at a First Ministers meeting and/or at ministerial conferences immediately afterwards, and,
 - (b) the federal government declares its readiness to negotiate the "priority items" after the negotiations on the Bill of Rights have been completed, with a schedule of work to be decided on at an early First Ministers meeting, or shortly thereafter.

If at first glance this seems a limited goal, it needs to be kept in mind that if the federal government asks too much of the provinces, it will be accused of having frustrated the process of change and for having failed to act in good faith. If, for example, M. Chrétien were under instructions to say that a meeting of First Ministers could only be held if there was agreement in principle to proceed with a Bill of Rights, the Premiers would almost certainly go to the press at once and Mr. Levesque would have occasion for an immediate election. On the other hand, if the federal government asks too little, a great opportunity may be lost. Thus, the plan incorporated in the scenario provides for the completion of all work on the Bill of Rights prior to the start of work on the priority items. The Bill of Rights is given a status above that of "priority".

- (4) The scenario envisages that the meeting of First Ministers would be held before the middle of June (page 3). It seems highly desirable that the meeting not be delayed until after July 1 because of the heightened tension that may then exist between Ottawa and Alberta over energy pricing. A bad atmosphere on that front would almost inevitably be felt in the constitutional discussions. There will not be time for a meeting in June after your return from Europe.

- (5) You will see from page 6 in the discussion on the Bill of Rights that the prospect of a referendum is raised explicitly. It is not, however, presented as, in any sense, a threat to the provinces should they fail to agree on the Bill of Rights, rather as an event which should occur because the people are involved. Thus the referendum would become a normal part of the process of constitutional change in regard to at least certain items, and for adoption of the Constitution as a whole.
- (6) There is one point of detail in regard to the Bill of Rights on which we would especially appreciate your guidance. As you will see on page 8, we imagine that some provinces may inquire about "opting-in" on language rights. We would recommend that M. Chrétien stone-wall on this for the time being, but you will appreciate that "opting-in" could be a possible fall-back position for you to agree to at a meeting with the Premiers.
- (7) The scenario also deals briefly with non-constitutional change as one of the two, sometimes inter-dependent, paths to renewal of the federation. We do not envisage any lengthy discussion of this either at M. Chrétien's meetings or at a meeting of First Ministers, but you may agree that it would be desirable to keep this approach in front of the provinces for thorough treatment soon after a First Ministers meeting.
- (8) As you will see, we propose that M. Chrétien turn over a letter from you to each of the Premiers in the beginning of his meeting; a draft of the letter is attached to the scenario. It emphasizes

the importance of the Bill of Rights and the need and opportunity to proceed quickly with it now. The purpose is to make it very difficult for any of the Premiers to argue publicly against the course of action you propose, and to make an effective case for eventual public use.

- (9) Attached to this memo is a time table covering the next three or four weeks.

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Calender of Events

- May 21 - Mr. Chrétien meets with Mr. Wells in Toronto
- May 22 - Mr. Chrétien meets with provincial Ministers in:
Winnipeg
Regina
Edmonton and Victoria (Vancouver?)
- May 23 - possible meetings by Mr. Chrétien with provincial Ministers in St. John's and Quebec City
- May 26 - Mr. Kirby meets with provincial Ministers or senior officials in Halifax, Fredericton and Charlottetown (and possibly St. John's)
- May 27 - Discussion in Priorities and Planning on basis of a document dealing with:
- Principles of a new Constitution
 - the Bill of Rights
 - the handling of the debate in Parliament
- and an oral report on the meetings with the provinces
- Week of
June 2-6- a two-day(?) debate in the House of Commons on the principles of a new constitution and on the need to proceed quickly with entrenchment of a Bill of Rights in the Constitution
- Week of
June 9 - a one-day meeting of First Ministers
- to discuss the Principles for a new Constitution
 - to discuss the substance of a Bill of Rights
 - to work out the process for further negotiations on the Bill of Rights
 - to agree on the process for handling the other priority constitutional (and non-constitutional) items

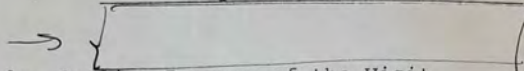
DRAFT

CONFIDENTIAL

May 20, 1980

*Eddy.
This is a bit
marked - up.
Sorry.
Nick*

Notes for M. Chrétien's Handling
of his Meetings with
Provincial Premiers or Ministers
May 21 - 23, 1980:



Phase 1: Outline Purpose of the Visit

Introductory Remarks:

- time has come to move forward rapidly and with determination towards constitutional change;
- things have changed in Canada;
- referendum results, and the campaign itself, are signs of change in Quebec;
- but there are many similar, and equally important, signals from all parts of the country, particularly from the West;
- there is a great opportunity in all of this, an opportunity which we must seize;
- all parts of the country are looking to us, to all governments, to move really quickly, to face up to our responsibilities, and to make the changes that are needed;
- because governments failed in the past does not mean they will fail now. Besides, more is expected of us now;
- there is not much margin for error, or for disillusionment;
- we need a fresh approach to ensure that this time the job is not only taken seriously (as it has been in the past) but that the job is completed;
- each of us has a mandate for change; our people have given that to us.

Suggest agenda for meeting:

- propose we deal with the following items:

1. begin with a brief exchange of views on what the process for negotiations should be, including an early meeting of First Ministers. That will quickly lead us into asking what we are going to discuss in such a process and I would like to suggest that we move on;
2. to exchange views on some of the principles for which this country stands, the principles which should guide our renewal;
3. then, would like to discuss giving a special priority to entrenchment of a Bill of Rights;
4. we could then complete our discussion of the future process. As part of that we could exchange views on which items should receive priority in the constitutional discussions, touching on provincial and federal suggestions;

- [you might at this point give the provincial Minister the Prime Minister's letter to the Premier, and a copy for the Minister himself.]

Phase 2:

Ask provincial Minister's reaction to the proposed agenda for meeting

- how does he see the situation after the referendum?
- does he have any items to add?
- [If they question the unusually high priority given to the Bill of Rights,] say that you will deal with their concerns when you reach that point in the agenda.

Phase 3: Agenda Item 1 - Initial exchange of views on the desired process, including an early meeting of First Ministers

- The government is already on record as saying that it would be ready to hold a FMC as early as July, so the provincial people will be expecting a suggestion along these lines.⁷
- You could say that the Prime Minister would be prepared to call a meeting of First Ministers, to be held before the middle of June:

For: How to do before June 30 i.e. after emergency and cons. i.e. before June.

- (a) to discuss the principles ^{for new Constitution} of ~~renewal~~,
- (b) to discuss the substance of the Bill of Rights, on the assumption that a consensus exists on the principle of proceeding first and quickly with the Bill of Rights,
- (c) to work out the process for any further negotiations on the Bill of Rights,
- (d) to discuss, and hopefully agree on, the process to be used for handling the other priority items.

- The government has in mind a very early meeting of First Ministers, with perhaps one minister and one or two advisers accompanying each First Minister. Alternatively, the meeting might be restricted to First Ministers and be held at 24 Sussex.
- At this stage you could also indicate that the government would like to get on with negotiations on the priority items by early Fall at the latest, and it could therefore see the likelihood of intensive negotiations on the Bill of Rights in June and July, and in September if necessary.

Phase 4: Ask for provincial views on process

- /quite a variety of suggestions may be made./
- /The provinces may propose a meeting of Ministers to make recommendations on an agenda for a First Ministers meeting. Mr. Blakeney has apparently suggested this in a telex to the Prime Minister./
- In that event, you could note that your trip across Canada would serve that purpose and that you would let provincial ministers know what the results of the trip were as soon as possible after it is completed.
- /It is unlikely that this item can be completed before the principles and the Bill of Rights have been treated./
You could therefore suggest at a suitable moment that the discussion move on to principles, and return to the process towards the end of the meeting.

Phase 5: Agenda Item 2Exchange of views on the Principles of ^{a new Canadian constitution} ~~Canadian Renewal~~

- begin by stressing that after the events in Quebec, in light of the concerns being expressed in all parts of Canada and as a prelude to constitutional change, it seems vital that the people and their governments have a reasonably clear idea of the principles for which Canada stands, including the basic purposes of the federation and the role of the Government of Canada in that federation.
- you might indicate orally what the proposed principles are / though there would be some merit in giving the provincial ministers a list, even if it is in draft, outline form ; such a list is attached./

- you might say it is the government's intention that these principles could form the basis for a Preamble to the Constitution, and that the government is considering the possibility of an early debate in the House of Commons on the principles as a sort of lead-in to the impending discussions with the provinces on the Bill of Rights and, later on, with regard to the "priority constitutional items".

Phase 6:Ask reaction to principles and to federal plans regarding them

- [the provinces may not know quite what to say, but some may question the basic idea of principles and others may question or comment on individual principles you may have mentioned. They will want to know whether you will accept amendments, or additions to the list. If they do the latter, they will be agreeing in principle to the idea of principles.]
- in response to such points, you might stress the importance of the principles as the expression of the Canadian ideal, Canada's guidelines for the future, etc. Certainly provincial suggestions would be welcome - if the basic notion is generally accepted. Details could be discussed by First Ministers or at a meeting of Ministers -- along with the Bill of Rights. The Parliamentary debate would help to highlight all of this; ^{for this reason has} it could, perhaps follow the First Ministers meeting, depending on the degree of provincial support for or interest in the principles.

Query note:

26/1/77

27 Feb.

- principles

- talk

- How handled in talk

- trans. (orally)

2-6 talk

9-11 AM. 24 Jan.

.../6

Phase 7: Agenda Item 3 - Entrenched Bill of Rights

- outline what the federal government has in mind,
- to seek as early as possible adoption, as a major sign of further substantial movement to come in regard to constitutional change,
- to show Quebecers and Westerners and all other Canadians that we can all agree on something important; that we all mean what we say about our commitment to change,
- the Bill of Rights does not involve a transfer of powers to the federal government or to the provincial governments,
- it is a transfer of power to the people, i.e. to each and every Canadian in every part of the country,
- because the Bill of Rights is of direct concern to the people, the government regards it as essential that the people be asked to approve the Bill in a referendum at a suitable stage,
- this would give all Canadians a chance, by implication, to express their feeling for Canada (especially after Quebecers have had that opportunity),
- best to do this on an issue on which there would be a broad measure of popular support,
- government also considers that a referendum is necessary because in the past people have not been directly involved in constitutional change and this process should begin soon (i.e. at the appropriate time),
- first, however, the governments have to agree, if they can, on what should be in the Bill of Rights and on how to express the various freedoms and rights contained in the Bill,
- the government wants this to be a positive force for unity and progress, not a divisive one. Therefore, wants to work out the details with the provinces to the greatest extent possible,

- federal government's impression is that the people want a comprehensive Bill, including fundamental freedoms, legal rights and, indeed, language rights (reference to recent studies in Atlantic Canada and by Canada West Foundation, which suggest that people in those provinces have strong, positive attitudes about reasonableness of protecting linguistic rights of others).
- government has a text of a comprehensive Bill available; it is basically the same as the Bill discussed in February 1979 (if there are important differences, some might be mentioned at this stage),
- [turn over a copy of the draft Bill of Rights to the provincial minister.]

Phase 8: Ask provincial Minister for his reaction

- /provinces will not likely welcome this idea and since most of the people you will be seeing are Ministers, some or maybe all of them, may say that they will simply report your suggestions/comments to their Premiers, /
- /they may, however, query you on the desirability of a referendum. / In that case, you could indicate that it is the government's firm intention, ~~in regard to constitutional items of particular interest to the people,~~ to obtain their approval to changes through referenda. Other areas which could well be the subject of referenda would be significant electoral reform, or adoption of an elected Senate (if one were recommended) and the constitution as a whole, once the revision is complete.

- /This will be difficult for provincial ministers to argue against though some may point out that this represents a substantial change in the way constitutions are amended in Canada. This would give you an opportunity to note again that the times have changed and require change.
- /Provinces may also say they are prepared to see the Bill of Rights on a priority list, but could not agree to its being #1 and well ahead of everything else. Provinces could note that they have concerns that they regard as equally important; they could stress the controversial history of this item.
- In response, you could emphasize the points in your presentation (Phase 7) having to do with the people. This change is not for the federal government, it is for the people of Canada. All Canada will benefit, etc. Provincial concerns and federal concerns will be dealt with on a priority basis, once the Bill of Rights is worked out and agreed to by governments. Now is the time to ~~decide to do~~ something really significant, while people are focussed on the unity of Canada.
- /There may be questions about the possibility of the provinces "opting-in" later on language rights -- as was provided for in Bill C-60.
- /We would suggest that you say that the government seeks a Bill of Rights which would apply everywhere in Canada from the time of its entrenchment. Why would the provinces want opting-in? What would Quebecers (and Francophones in their province) think?
- /While it would be desirable to let provinces say their piece on this, you would probably not wish to show any hint of agreement with the suggestion that "opting-in" should be accepted.

*to letter
precisely
because I
disagreed
with Bill C-60*

*- change
in case this
nobody comes
or loses.*

*to show that real change can actually be accomplished
before a
Quebec
new
election*

Phase 9:

- /After you have obtained their preliminary comments, /
you could say that the Government would like to discuss
the substance of the Bill of Rights at an early meeting of First
Ministers and ~~also~~ ^{subsequent} at meetings of Ministers held for that
purpose with the Bill of Rights as the first item on the
constitutional agenda.
- you could emphasize that once there is agreement among
governments on the Bill of Rights, both as regards the
principle and the wording, if that agreement can be obtained,
the government would move on immediately to discuss the
"priority" items with the provinces, including the federal
priorities, on the basis of a schedule which could be
agreed upon at the meeting of First Ministers.

Phase 10: Agenda Item 4 - Complete discussion on future process

- you might begin by asking for province's views on its top
priority items,
- /if there is doubt about what is meant by a particular
suggestion from the province, / ask for clarification,
- /suggest a few federal priority items / (mentioning explicitly
that the Bill of Rights is seen in a separate, special
category of its own),
- possible ~~Federal~~ ^{Referred} items you could draw on include:
 - (a) Patriation (with or without an amending formula)
 - (b) Equalization ~~Referred~~
 - (c) Supreme Court Spdy
 - (d) The Senate
 - (e) Natives and the Constitution
 - (f) Powers affecting the Economy

- (g) Electoral Reform
- (h) Legislative Delegation

Note: It might be advisable to mention as well one or two "provincial" items as a sign that the federal government regards some of their concerns as priorities, e.g. communications, resources (though it would need to be made clear that "resources" would have to be tied to "Powers affecting the Economy" ((f) above.))

Phase 11: Discuss various suggestions for priority list

- the purpose would be to make the various ideas clear.
There is no need to reach agreement on the order of subjects for later discussion.

Phase 12:

Sum up the meeting, covering the agreement (or positions on) each of the items you will have covered at your meeting:

1. the future process, including items for the "priority" list,
2. principles of ~~renewal~~,
3. the Bill of Rights as a special priority,
4. *PMC*

Phase 13: Other Business

- You might ask the provincial ministers whether they have other concerns on their minds in regard to other federal-provincial matters that they would wish you to look into on your return to Ottawa.
- They may mention a few items or may say there are some things on which they are going to write to you.

DRAFT

My dear Premier:

The referendum in Quebec is now over and the people of that province have expressed clearly their collective wish to remain in a renewed Canada. I believe you will agree with me that there is no more critical or urgent task before us than the achievement of that renewal, which is sought, not only by Quebecers, but by Canadians everywhere. I am sure that all First Ministers will be ready to devote whatever time and energy may be needed for the work. I believe that we will all bring to the task the flexibility and tolerance, indeed, the generosity of spirit, which will be needed so much if we are to succeed.

A number of Premiers have already expressed the wish for an early meeting of First Ministers to be held on this great question. I believe, too, that such a meeting is essential if we are to plan together the work which has to be accomplished over the coming months of intensive effort. It is with this in mind that I have asked the Honourable Jean Chrétien, who has particular responsibilities in the

federal Cabinet for constitutional renewal, to visit you, and if you are not able at the time to see him, to call upon your senior Minister concerned to discuss the kind of ^{Just himself} meeting we should plan, ^{for} and the agenda we might adopt.

For my own part, I think we might contemplate a private meeting, perhaps at 24 Sussex, which would last a full day. Alternatively we might restrict our delegations to one Minister and one or two advisers each. We need time, I believe, to take stock of where we are and to lay our future plans carefully. I would hope we could meet at your convenience within the next three weeks, and Jean Chrétien will be exploring a suitable date with each provincial government.

In so far as an agenda is concerned, I will be most interested in the views which you or your Minister will be conveying to Jean Chrétien during his visit. It seems to me that we might open our discussions by a preliminary review of the process we should follow in handling the work on constitutional reform. In that context we might take note of any subjects which are of priority for any of the governments. This would give us an early idea for the ordering of future work.

As our second item of business, I have the thought that we might take some time to discuss the potential value of a set of principles, as a guide to our work and as a possible preamble to a renewed Constitution, and as a source of inspiration for Canadians.

As the third question, I would like very much to have a thorough discussion of the Bill of Rights and on how we might best proceed to bring such a project to reality at an early date. *Essex of agent* *no comment* *less.*

We would want to conclude our meeting by completing our discussion about the future arrangements for our work together: the best ways for our Ministers and officials to organize their roles, and how they, in turn, could relate their work to us. In that context we might consider, too, the non-constitutional means of bringing about renewal and decide how best to go about considering the various possibilities. *For interest.*

I hope that Mr. Chrétien's visit to your province will be useful to you, and a fruitful step in preparing for the important meeting we have ahead.

If non-constitutional item is included on M. Chrétien's agenda:

On page 2 (after 3) insert the following:

"4. to consider the desirability of using non-constitutional means of bringing about renewal;"

On page 3 (after (d)) add the following words:

", and for dealing with non-constitutional change."

On page 9 (after Phase 9 and before Phase 10):

"Phase 9A: Agenda Item 4 - Non-constitutional means of renewal

- indicate that the purpose in raising this item is to stress that the government proposes to use all appropriate means to bring about renewal of federalism: constitutional and non-constitutional,
- the federal duplication reduction project that started in 1978 and the Western Premiers "intrusions" reports of 1977 - 79, are parts of the same effort.
- the federal government has been studying possible new legislative and administrative means of enhancing federal-provincial cooperation and reducing conflict and overlap, and will have further suggestions to make to provincial governments,
- no doubt, both the federal and the provincial governments have strayed into one another's jurisdiction over the years; change will therefore be needed at both levels,
- federal government believes it would be desirable if First Ministers would reaffirm their support for such an approach.

Phase 9B: Ask for provincial comments on non-constitutional approach

- /the provinces have been quite cooperative over the past months, and are likely to accept proposal that non-constitutional efforts continue./
- if necessary, you could stress need that all means to renewal be exploited, and that constitutional and non-constitutional paths can often be interdependent."

On page 10 (after #3, Phase 12) add the following:

"4.- to consider the desirability of using non-constitutional means of bring about renewal;"