I have already referred. For ease of reference the main elements are:

(a) A Preamble. This is entirely new and is simply an idea of the way a total presentation might look.

(b) Part I is the amending formula contained in the Victoria Charter made applicable to those parts of the Constitution not now mendable in Canada. Thus Articles 49, 50, 51, 52, 56 and 57 of Part IX of the Victoria Charter are included, while Articles 53, 54 and 55, which were designed to replace Articles 91(1) and 92(1) of the British North America Act, are not. The amending formula has not been modified to take account of the views expressed by certain Western Premiers concerning the population qualification for agreement by the Western provinces. I suggest that this might be a matter that, in the first instance, you and your three Western colleagues might attempt to solve amongst yourselves.

(c) Part II, which is Part IV of the Victoria Charter concerning the Supreme Court, with a final Article (included in another Part of the Victoria Charter) to protect the status of Judges already appointed.

(d) Part III, which is a modified version of Part II of the Victoria Charter concerning language rights. It would entrench the constitutional status of the English and French languages federally. It would not affect the provinces, but it would permit a province, under Article 35, to entrench its own provision if it so wished.

(e) Part IV, which is the "guarantee" designed to protect the French language and culture against adverse action by the Parliament and Government of Canada.

(f) Part V, which is essentially Part VII of the Victoria Charter on Regional Disparities. The presentation has been slightly altered but there is no change in substance whatever.

(g) Part VI, which is a new Article designed to indicate the spirit in which Governments may enter into agreements. In two of the three areas specifically mentioned, major agreements with Quebec have been concluded over the past two years (family allowances and consultation on immigration).

Mr. Bourassa advised me in our conversation on March 5th that the things he considers to be necessary might well go beyond what we, in the federal government, have understood to be involved in the present exercise. In part they might relate to the distribution of powers. I advised him that the Government of Canada, for its part, feels that it can go no further as part of this exercise than the constitutional guarantees that are embodied in the document and that indeed even they might find difficulty of acceptance in their present form. To go further would involve entry upon the distribution of powers, with the consequences to which I have referred. We must, then, consider three alternatives that are open to us in these circumstances.

Let us begin with the simplest alternative. The Government of Canada remains firmly of the view that we should, as a minimum, achieve "patriation" of the B.N.A. Act. it is not prepared to contemplate the continuation of the anomalous situation in which the British Parliament retains the power to legislate with respect to essential parts of the constitution of Canada. Such "patriation" could be achieved by means of an Address of the two Houses of the Canadian Parliament to the Queen, requesting appropriate legislation by the British Parliament to end its capacity to legislate in any way with respect to Canada. Whereas unanimity of the federal government and the provinces would be desirable even for so limited a measure, we are satisfied that such action by the Parliament of Canada does not require the consent of the provinces and would be entirely proper since it would not affect in any way the distribution of powers. In other words, the termination of the British capacity to legislate for Canada would not in any way alter the position as between Parliament and the provincial legislatures whether in respect of jurisdictions flowing from Sections 91 and 92 or otherwise.

However, simple "patriation" would not equip us with an amending procedure for those parts of our constitution that do not come under either Section 91(1) or Section 92(1) of the B.N.A. Act. To meet this deficiency, one could provide in the Address to the Queen that amendment of those parts of the constitution not now amendable in Canada could be made on unanimous consent of Parliament and the legislatures until a permanent formula is found and established. In theory this approach would introduce a rigidity which does not now exist, since at present it is the federal Parliament alone which goes to Westminster and the degree of consultation of or consent by the provinces is a matter only of convention about which there can be differences of view. In practice, of course, the federal government has in the past sought the unanimous consent of the provinces before seeking amendments that have affected the distribution of powers.

A second and perhaps preferable alternative would be to include in the action a provision that could lead to the establishment of a permanent and more flexible amending procedure. That could be done by detailing such a procedure in our Joint Address and having it included in the British legislation as an enabling provision that would come into effect when and only when it had received the formal approval of the legislatures of all the provinces. The obvious amending procedure to set forth would be the one agreed to at Victoria in application to those parts of our constitution not now amendable in Canada (Part I of the attached "Draft Proclamation"). This could be with or without modification respecting the four western provinces. (On this last point, the federal government would be quite prepared to accept the proposed modification and it is my understanding that the other provinces would equally agree if the western provinces can arrive at agreement.)

If we took the above step, we would achieve forthwith half of the objective of last April—"patriation"—and we would establish a process by which the other half—the amending procedure—would become effective as and when the provincial legislatures individually signify their agreement. Over a period of time, which I hope would not be long, we would establish the total capacity to amend our constitution under what is clearly the best and most acceptable procedure that has been worked out in nearly fifty years of effort since the original federal-provincial conference on this subject in 1927. Until full agreement