

discussions as you might wish to have. When opportunity offers at an early meeting, we might also discuss the matter together.

I would welcome your comments. Mr. Robertson will be in touch with your office to see if you would wish to have a meeting with him and, if so, what time would suit.

Prior to my meeting with Mr. Bourassa, I did not feel that I was in a position to place any documents before Parliament, but I now feel it proper to do so. I would like to table copies of this letter, as well as of the "Draft Proclamation" that is enclosed. If you have any objection, could you please advise me forthwith. If I do not hear to the contrary, I shall plan to table on April 9th. Should you wish to do the same in your legislature, I would of course, have no objection.

Sincerely,

P. E. TRUDEAU

CONFIDENTIAL

Ottawa K1A 0A2
March 31, 1976

The Honourable W. R. Bennett,
Premier of British Columbia,
Parliament Buildings,
Victoria, British Columbia.

My dear Premier:

I very much enjoyed meeting you during my recent visit to British Columbia and having the opportunity of raising with you, among other things, the matter of the "patriation" of the British North America Act. You will recall that I mentioned that I had discussed such an exercise with the Premiers of the other provinces at 7 Rideau Gate last April. At my request, all the Premiers with the exception of Mr. Barrett held preliminary discussions with Mr. Gordon Robertson, the Secretary to the Cabinet for Federal-Provincial Relations, acting on my behalf. Further discussions with Quebec took a good deal of time and it was not until March 5th that I had the opportunity of reviewing the question with the Premier of Quebec. I thought it essential to know his attitude before proceeding to further action.

We started with agreement in principle on the desirability of "patriating" the B.N.A. Act and, at the same time, establishing as law the amending procedure that had been agreed to in Victoria in 1971. We also agreed that we would not, in the present "patriation" exercise, consider substantive changes to the B.N.A. Act itself since any entry on that course would, as the discussions from 1968 to 1971 had shown, make early action impossible. Mr. Bourassa indicated, however, that it would be difficult for his government to agree to this unless the action also included "constitutional guarantees" for the French language and culture. We agreed that our general acceptance of the plan, in principle, would be subject to more precise exploration and definition, and this was the purpose of the discussions Mr. Robertson had with the other Premiers on my behalf. I should like to inform you of what developed in the course of those discussions.

It quickly became apparent in Mr. Robertson's discussions that the action for "patriation" and establishment of the amending procedure would be more meaningful for,

and more acceptable to, a number of provinces if certain other alterations in our constitutional situation could be established at the same time. Most of these alterations, with the exception of Mr. Bourassa's "constitutional guarantees", were among the things that had been included in the Victoria Charter. They included the provision for consultation with the provinces about appointments to the Supreme Court of Canada and the special handling of cases arising from the civil law of Quebec. They included also the provision concerning the reduction of regional disparities. Certain of the western provinces wanted to have the amending procedure itself modified so that the requirement with regard to consent from the four western provinces would be the same as that for the four eastern provinces. This would mean deletion of the population provision respecting the western provinces that was inserted at Victoria.

The main problem was the definition of the "constitutional guarantees" to which Mr. Bourassa had referred at the outset. Mr. Robertson found that the Premiers he spoke to after the initial discussions with Mr. Bourassa in May had no objection in principle to "constitutional guarantees", although all made it clear that they would want to consider them in detail once they had been worked out with Quebec and reduced to writing.

I will not go into all the difficulties that are presented by the concept of "constitutional guarantee"; they are many and complex. Discussions with Mr. Bourassa's representatives finally led to a formulation that was included in a document sent to him in November, 1975. I am enclosing a copy of the full document herewith. I would draw your attention especially to Parts IV and VI. The formulation of the principal "constitutional guarantee" is Part IV (Article 38). It is buttressed by Part VI (Article 40) and also by the provisions concerning language in Part III.

As I have mentioned, the "constitutional guarantee" was a concept raised by Mr. Bourassa and stated by him to be essential. Articles 38 and 40 attempt to cover the points made by his representatives. Mr. Bourassa knows that my colleagues and I share some concern about the fellow Premiers in the light of the facts relating to the position of the French language and culture in Canada.

I should emphasize that the document, while it is styled a "Draft Proclamation", was put in this form simply to show with maximum clarity what the result would be if all the proposals, as they had emerged in the course of Mr. Robertson's consultations, were found acceptable by all governments. It should not be regarded as a specific proposal or draft to which anyone is committed at this stage since there has not been agreement to the totality of it by anyone. It is rather in the nature of a report on the various ideas, including Mr. Bourassa's "constitutional guarantee", as they developed in the course of the informal discussions from April to November, 1975.

As I stated earlier, most of the "Draft Proclamation" consists of provisions of the Victoria Charter which various Premiers have asked to have included in any action we take. In some cases there are adjustments of the Victoria provisions in order to take into account altered circumstances since 1971 and to benefit by some hind-sight. The new parts of this "report" are the Parts IV and VI to which