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CANADA

SECRET

Serial No 656-80CR (MEO)

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MINISTER'S EYES ONLY
RESERVE AUX MINISTRES

December 10, 1980
le 10 décembre 1980

REPORT OF COMMITTEE DECISION
RAPPORT DE DECISION DU COMITE

POSSIBLE AMENDMENTS TO PROPOSED RESOLUTION ON CONSTITUTION OF CANADA

D'EVENTUELLES MODIFICATIONS AU PROJET DE RESOLUTION CONCERNANT LA CONSTITUTION DU CANADA

The Cabinet Committee on Priorities and Planning recommended that amendments to the proposed joint resolution on the Constitution of Canada, as set out in the Memorandum to Cabinet (656-80MC(E)) dated November 25, 1980, and accompanying annexes, be approved subject to the exceptions and conditions set out below.

1. the following amendments or elements thereof to the sections of the Constitution Act 1980 enumerated below were not approved:

   (1) subsection 31 (2),

   (2) paragraph 38 (3) (a), to be replaced with an amendment to the effect that any alternative to the amending formula set out in Section 41 require a joint resolution of the House of Commons and the Senate,

   (3) the elements of Subsection 42 (2) that would require the approval of provincial legislatures in order to permit the holding of a referendum,

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2. the following amendments were to be considered further at the December 16, 1980, meeting of the Committee in light of further work by the Minister of Justice:

(1) section 1, to be redrafted with a view to including the words "... such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.",

(2) sections 8 and 9 and Paragraph 11 (d), approved subject to consultations with the Attorney General of Ontario,

(3) section 15, to be redrafted with a view to including words to the effect that "Every individual is equal before and under the law ..." and to including age as a basis for equal treatment,

(4) section 20, to be redrafted so as to leave to the courts the determination of whether there is "significant" demand for services in both official languages,

(5) section 23, to be redrafted with a view to including the test of "where numbers warrant",

(6) sections 40 and 46, to be redrafted so as to make clear that recommendations by Referendum Rules Commissions would have the force of law only after being approved by Parliament and so as to specify the precise time limits within which commission must complete their recommendations,

(7) section 41 (1) (b) (ii), approved subject to reconsideration of Section 42 (1) (b), with the Minister of Justice authorized to offer an equivalent change to 41 (1) (b) (iii) if requested to do so by all four premiers of the western provinces,

(8) sections 44, 50 and 51, approved subject to assurances that they would meet the concerns of Senators,

(9) section 47, to be redrafted so as to eliminate the requirement for unanimity on constitutional changes not applying to all provinces,

(10) sections 52 (1), to be reconsidered in light of concerns raised with regard to the effect of the amendments on interprovincial and international trade,

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s.19(1)

3. the Committee further agreed that:

(1) technical amendments described in Section III of the Memorandum to Cabinet, together with amendments proposed in the Addendum to the Memorandum dated December 8, 1980 not otherwise dealt with, be considered at the next meeting of the Committee,

(2) amendments to Section 16 to 20 applying to New Brunswick be approved only on the basis of a resolution of the legislative assembly of the province of New Brunswick,

(3) the Minister of Justice be authorized to indicate to the joint committee a willingness to consider amending Section 24 along the following lines:

"The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that may exist in Canada, including any historic, treaty or other rights or freedoms that may pertain to the Aboriginal peoples of Canada."

[redacted]

R. Rabinovitch
Senior Assistant Secretary
to the Cabinet
(Priorities and Planning)

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