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**DOCUMENT 8**

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**Correspondence from January to February 1966 between the Prime Minister of Québec, Jean Lesage, and the Prime Minister of Canada, Lester B. Pearson, regarding the Fulton-Favreau Formula.**



OFFICE OF THE PRIME MINISTER

PROVINCE OF QUEBEC

January 20, 1966

The Right Honourable Lester B. Pearson, P.C.  
Prime Minister of Canada  
Parliament Buildings  
Ottawa

My dear Prime Minister,

As is fitting upon the eve of a new session of the Legislature, the Quebec cabinet recently reviewed the principal items likely to be considered thereat. Among them are the draft bills entitled "Quebec Parliament Act" and "An act to provide for the amendment in Canada of the Constitution of Canada".

At the last regular session, the Legislative Assembly voted an address to Her Majesty, praying her to cause to be laid before the Parliament of the United Kingdom the bill entitled: "Quebec Parliament Act". This is linked up with the proposed constitutional amendment bill since the latter would have the effect of ensuring definitively to the only provincial upper House still in existence an absolute right of veto over any amendment of its own powers. Since the British parliament has not yet been seized of the request of the Legislative Assembly, the latter has not been called upon to consider the proposed formula for amending our constitution.

Many events have occurred since this formula was elaborated, and it would not be proper to ignore them. Among them should be mentioned the country-wide debate which has taken place respecting the formula itself, the continued dialogue between Quebec and the rest of the country,

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a constant and sustained evolution towards a new relationship between Quebec, the other provinces and the Government of Canada, the progress of the studies and discussions undertaken by the Tax Structure Committee, the Royal Commission of Inquiry on Bilingualism and Biculturalism and our own Special Committee on the Constitution.

You are also aware that the proposed formula for amending our constitution has caused some anxiety in Quebec. Whatever the cause of this feeling, it is a factor which should not be ignored. For instance, I personally am struck by the fact that, as early as last spring, the formula was not being interpreted everywhere in the same way. Thus I had always assumed that, as regards the amendment of legislative powers, any diminution of provincial power required unanimity, whereas any increase of such power called for the concurrence of only two-thirds of the provinces representing one-half of the population. This view, however, is not shared by everyone, even the specialists. It is contended, in fact, that under the formula any province could prevent the extension of the powers of another province. Needless to say, if that interpretation were to prevail, the evolution of our constitutional system in the direction desired by Quebec might become very difficult.

The visit which I recently had occasion to make to Western Canada also made me aware of the considerable difference between the manner in which Quebec wishes to see our constitutional system develop and the views held on this subject by many Canadians in other provinces. This difference of opinion, moreover, was confirmed to some extent by statements made after that visit by authorized representatives of other provinces. My feeling is that after this interval for everyone to ponder our country's future, we shall be in a better position to know what to aim for. It will also be most useful, in that regard, to reflect upon the work of the Tax Structure Committee and the forthcoming report of the Royal Commission on

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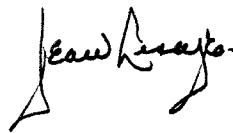
The Right Honourable Lester B. Pearson      1/20/66

Bilingualism and Biculturalism. By then, I imagine, each of the governments in the country will have had an opportunity to define its policy, not only in the field of federal-provincial relations, but also respecting the relations between French-speaking Canadians and English-speaking Canadians.

In the circumstances, the government of Quebec has decided to postpone indefinitely the consideration of the proposal for constitutional amendment.

Trusting that you will consider this decision as an indication of our sincere solicitude for the present and future progress of Canada, I remain, my dear Prime Minister,

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jean Lesage". The signature is written in a cursive, slightly slanted style.

Ottawa, January 26, 1966

My dear Prime Minister:

As I pointed out in the telegram which I then immediately sent you, I saw only in the afternoon of January 24 your letter of January 20, 1966, concerning the constitutional amendment formula. The irony of it is that I had indicated that very morning, in reply to questions by the Leader of the Opposition and other members in the House of Commons, that the federal government had every intention to submit the constitutional amendment formula to Parliament as soon as it had been concurred in by all the provincial legislatures. I had thus implied that I remained of the opinion that Quebec would in due course endorse the proposed procedure to amend in Canada the Constitution of Canada.

My view was based on a number of positive factors which I could not but interpret in a positive and encouraging way, even though I was as you know fully aware of the difficulties.

First among those factors, of course, was the fact that the constitutional amendment formula was agreed unanimously by the heads of the federal and of the ten provincial governments at the Federal-Provincial Conference on October 14, 1964. We all then undertook to submit the proposed amendment

The Honourable Jean Lesage,  
Prime Minister of Quebec,  
Parliament Building,  
Quebec, Que.

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procedure to our respective governments for formal approval following whatever procedure each thought appropriate. Secondly the White Paper which the federal government published on the subject in March 1965 had been endorsed without qualification by the ten provincial governments. Indeed, the Quebec authorities actively participated in the preparation of the French texts of both the amendment formula and the White Paper, and accepted them officially. The White Paper contained a detailed explanation of the various clauses of the amendment formula which was not questioned at the time.

Thirdly the Speech from the Throne, at the opening of the last session of your legislature, stated that: "So that the repatriation of the Constitution shall not have the effect of entrenching the powers of the Legislative Council over bills passed by the Legislative Assembly, you will be asked to restrict those powers". As a result, the Legislative Assembly eventually approved an Address to Her Majesty, praying Her to cause to be laid before the Parliament of the United Kingdom the bill entitled: "Quebec Parliament Act". For its part, the federal government has made a clear distinction, in deciding on the procedure that it should follow in advising the Governor General, between the Address approved by the Legislative Assembly of Quebec which relates only to the Constitution of Quebec, and the Address concerning the constitutional amendment procedure which relates to the Constitution of Canada. Your government, however, as confirmed in your letter of January 20, 1966, has maintained a direct link between the two proposals. Therefore I have to ask myself

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whether, as a matter of policy, the Legislative Assembly and the Government of Quebec would still wish the "Quebec Parliament Act" to be introduced in the United Kingdom Parliament.

Fourthly all the provinces, except Quebec, have formally notified the federal government of their formal concurrence in the proposed amendment formula. Undoubtedly in seeking the approval of their respective legislatures and in giving formal approval to the formula they shared my confidence that the Government of Quebec would take a similar step.

Finally, the federal government has all along been conscious of the potential relationship which exists between the amendment procedure and eventual revision of the Constitution itself. The studies mentioned in your letter as likely to have important implications for the constitutional development of Canada, were initiated before or concurrently with the approval of the amendment formula. The Royal Commission on Bilingualism and Biculturalism was established in July 1963; the Special Committee on the Constitution of the Legislative Assembly of Quebec was created in June 1963; and the terms of reference of the Tax Structure Committee were agreed on October 14, 1964, immediately before the Federal-Provincial Conference also unanimously approved the constitutional amendment formula itself. Those are not therefore entirely new developments. Frankly, I had assumed that since the constitutional amendment formula represented, from the point of view of both the federal government and the provincial governments,

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such a marked improvement over the existing procedure in enabling us at last to amend our Constitution in Canada without having to go to the Parliament of another country, that the eleven governments would be prepared to accept it. But I certainly never excluded the possibility that, as part of an eventual revision of the Constitution, the amendment procedure itself might then have to be modified to respond more effectively to any new federal-provincial relationship that might by then seem wiser or sounder for the achievement of constitutional change in the future.

In conclusion, I am bound to express my great disappointment with the decision of your government to postpone indefinitely the consideration of the proposal for constitutional amendment. I venture to hope that the Government of Quebec might be prepared to reconsider its decision in the light of the hopeful circumstances to which I have referred and of the many developments in the last three years in the field of Federal-Provincial relations. At the same time, I fully accept, of course, the expression of your "sincere solicitude for the present and future progress of Canada" contained in the closing paragraph of your letter of January 20, 1966. It is as a step in that progress and as an instrument for its continuance that the Government of Canada had hoped to see the amendment formula approved.

It is clear that, if your government does not consider that it can alter its position, we shall have to discuss the whole matter again at a future meeting of the Federal-Provincial Conference. Meanwhile, the position of my government remains as stated in that part of the Speech from the Throne opening

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the current session of Parliament, which reads: "It remains the objective of the federal government to provide that the Constitution of Canada may be amended in Canada".

Yours sincerely,

(SIGNED) L. B. PEARSON



OFFICE OF THE PRIME MINISTER

PROVINCE OF QUEBEC

February 17th, 1966

The Honourable Lester B. Pearson,  
Prime Minister,  
Government of Canada,  
Ottawa, Ont.

My dear Prime Minister:

Your reply of January 26th to my letter of January 20th has been brought to the attention of my Cabinet colleagues who have thoroughly examined its contents.

After full consideration, and for the reasons set out in my letter, the Government of Québec feels that it must maintain its decision to postpone indefinitely the study of the present proposed amendment to the constitution.

Of course, if such is the desire of the Government of Canada or of the other provinces, Québec has no intention to oppose the reconsidering, at a future federal-provincial conference, of the repatriation of the constitution in the light of the circumstances mentioned in our letters.

In any event, I must add that we are most anxious to see the Quebec Parliament Act adopted. If this question is not settled as envisaged it will have to be taken up again in any discussion of a new formula for the repatriation of the constitution.

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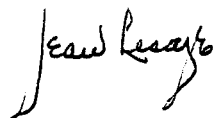
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The Honourable Lester B. Pearson,

I readily understand your disappointment at the decision taken by the Government of Québec. You may rest assured, however, that in this matter my colleagues and I have never questioned the basic aim that our constitution should become absolutely and truly our own.

With my best regards,

Sincerely yours,

A handwritten signature in black ink, reading "Jean Lesage". The signature is written in a cursive style with a large initial 'J' and a long, sweeping tail.