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Canada

(2)

Prime Minister

We are far from out of this woods!

Paul 10/6

Ref. A05036

MR. ALEXANDER

In the course of a meeting which I had yesterday with Mr. Michael Pitfield, the Secretary to the Canadian Cabinet, the subject of the Canadian Constitution came up.

2. Mr. Pitfield said that it was now hoped that the Supreme Court would report very early next week - perhaps on Monday, 15th June. Mr. Trudeau was very confident that the Supreme Court would find in favour of the Federal Government's position, but Mr. Pitfield thought that this might well not be unanimous: the verdict might be on the basis of a six to three or seven to two majority.

3. Mr. Pitfield said that, if the Supreme Court found against the Federal Government, the Federal Parliament would not be asked to approve the Resolution with the Constitutional package, and the next stage would be another Federal-Provincial conference, probably some time in the autumn.

4. If the Supreme Court found in favour of the Federal Government, there would be a two-day debate in the Canadian Parliament within a week after the judgment was received, and the package would be sent across to Westminster.

5. If the Supreme Court generally found in favour of the Federal Government but found against certain elements in the package, there would be immediate talks between the Government and the Opposition in Ottawa, with a view to introducing a Resolution embodying the parts of the package which the Supreme Court had blessed. The object would be to complete that process within a week of receiving the judgment.

6. Thus the expectation is that the Canadian Parliament's Resolution may reach Westminster before the end of June, perhaps in the week beginning 22nd June.

7. It had been reported in the Canadian newspapers that Mr. Trudeau had made a speech indicating that he still expected the British Parliament to pass the legislation by 1st July. I asked Mr. Pitfield if Mr. Trudeau really expected that.

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Mr. Pitfield made it clear that he did not expect it, on the timetable now foreseen. But he would be extremely keen to have the legislation through Parliament at Westminster by the time Parliament rose for the Summer Recess. There are two reasons for this:

- (a) Mr. Trudeau has in mind some "wound-healing" process, once the main issue is settled, and he wants to make a start on this process as soon as the Canadian Parliament comes back after its Summer Recess.
- (b) It is expected that the Provincial Government in Quebec will challenge some of the language provisions in the new Bill of Rights.

Mr. Trudeau attaches great importance to the Federal Government facing this challenge and surmounting it while he is still Prime Minister. It was clear from my conversation with Mr. Pitfield that Mr. Trudeau did not expect to be in office for more than a year or 18 months from now. He believes that the challenge from Quebec is best faced while there is a French-speaking Prime Minister in Ottawa.

8. Mr. Pitfield said that Mr. Trudeau continued to place great faith in the undertakings which he had received from the Prime Minister, and this faith had grown, with his admiration of the way in which she had dealt with the problem in the British Parliament. He had wondered whether to make direct contact with her, but had decided that, while the issue was still under consideration by the Supreme Court, any such contact could be embarrassing to both of them.

Mr. Pitfield said that Mr. Trudeau would not dream of "taking on" the British Government; but, if he thought that the House of Commons at Westminster was deliberately delaying the passage of the legislation, in order to prevent its passing before the Summer Recess, he would not hesitate to "take on" the British Parliament. This "taking on" would take the form of "raising the ante" in Ottawa; by which I took Mr. Pitfield to mean calling in question Canadian membership of the Commonwealth and perhaps even the Monarchy in Canada.

9. I said that my understanding of our position when I left London last week was that Ministers did not propose to make any moves until the Supreme Court had published its decision. My expectation was that the Government reply to the

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report of the Select Committee on Foreign Affairs would be published very shortly after the Supreme Court decision was known. How the matter was handled thereafter would depend upon the judgment of the Parliamentary managers. I thought that Ministers were of the view that, if they could be sure of carrying the legislation, there would be a good deal to be said, from the point of view of the British Government as well as of the Canadian Government, for passing the legislation before the Summer Recess. The Parliamentary managers would have to assess the possibility of doing this: that would be a head-counting exercise, and I could not say what the outcome would be, though I thought that on the whole opinion had been shifting towards the view that Parliament ought to pass the legislation, if the Canadian Government's proposals were blessed by the Supreme Court. The Parliamentary managers might decide that the best course would be in the first instance to have a debate on the FAC report and the Government's reply to it; that would enable Members of Parliament to express their views, without there needing to be a decisive vote at the end of that debate. This might enable the legislation itself to go through more easily when the time came. It would again be up to the Parliamentary managers to decide what tactics were most likely to ensure the passage of the Bill: it did not necessarily follow that a three-line whip on the Government's supporters would be the best way of achieving this result. If the business managers came to the conclusion that it would not be possible to carry the legislation, it would probably be better not to try to press it at the risk of a defeat, and hope to be able to do better with it when Parliament returned after the Summer Recess; if that seemed to be at all a likely outcome, we should clearly need to make early contact with the Canadian Government.

10. Mr. Pitfield said that, if the Supreme Court found in favour of the Federal Government, at least some of the Provincial Governments were likely to continue their opposition. He expected that they would arrange for at least two Provincial Ministers to be in London at any one time from now on until the legislation was introduced at Westminster, seeking to lobby support for the opposition of the Provincial Governments to the measure. The Federal

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Government did not intend to send a Minister to London, because it would not in their view be seemly for a row between the Federal Government and the Provincial Governments to be conducted in London. They would, however, probably send over a highly-qualified information officer, to make sure that the facts of the situation and the basis of the Government's position were got across to the British media and public.

11. Mr. Pitfield said that he hoped that he and I could keep in contact on these matters through the coming weeks.

12. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Chancellor of the Duchy of Lancaster.

A handwritten signature in black ink, appearing to read 'R.A.', is positioned above the printed name.

ROBERT ARMSTRONG

10th June, 1981

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