

CONFIDENTIAL

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Foreign and Commonwealth Office

London SW1A 2AH

3 February 1981

Dear Michael,

Canadian Constitution

You will have seen Ottawa telegrams number 49 and 50 in which the High Commissioner suggested that the Prime Minister might send a personal message to Mr Trudeau. Following Mr Trudeau's recent remarks in the Canadian House of Commons the High Commissioner sent two further telegrams (numbers 54 and 55) yesterday reiterating his suggestion. Copies of all four telegrams are attached.

Sir John Ford's suggested message implies that we should consider changing our policy and backtrack at least to the extent of asking Mr Trudeau to drop his Bill of Rights. As you know from my separate letter today Lord Carrington and Mr Pym have discussed our policy recently and are agreed that we should not make a change - both because of our commitments to the Canadian Federal Government and because the policy is right. Under the circumstances, Lord Carrington feels that a message would be likely to do more harm than good.

Lord Carrington would be grateful to know if the Prime Minister agrees with this line. If so, we would inform the High Commissioner in Ottawa along the lines of the enclosed draft telegram.

Yours ever,

(F N Richards)
Private Secretary

M O'D B Alexander Esq
10 Downing Street

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Spore

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~~AMC 012/1~~

~~XXX~~

WONFO 017/03

OTWON 003/03

FLASH

FLASH FCO

GRS 360

CONFIDENTIAL

FM OTTAWA 031450Z FEB 81

TO FLASH FCO

TELEGRAM NUMBER 55 OF 3 FEBRUARY

ADVANCE COPY Hd/NAD ✓

Hd/pecu > Hd/CCD
Hd/News Δ

Hd/DefD

PS

PS/LPS

PS/Rg Ridley

PS/Rg Blaker

PS/PUS

Sir E Youde

Ld Trefgarne

Rg Day

MY IMMEDIATELY PRECEDING TELEGRAM

Ld NG Lennox
Rg Ure

Rg Freeland

Rg Parry

[limited]

93

CANADIAN CONSTITUTION

1. IF MRS THATCHER DOES SEND TRUDEAU A MESSAGE INTENDED FOR EARLY PUBLICATION WE SHALL NEED HERE TO SPEAK UP BOTH ON AND OFF THE RECORD IN ITS SUPPORT AND I SHALL HAVE TO GIVE QUICK GUIDANCE TO MY TEAM.

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2. IF MESSAGE IS ON THE LINES SUGGESTED IN MY TELNO 50 I SUGGEST THAT WE SHOULD BASE OURSELVES ON ITS CONTENTS, ON THE FAC REPORT, AND STRESS THE IMPOSSIBLE POSITION IN WHICH THE FEDERAL GOVERNMENT HAVE PLACED HMG. CANADA IS A FEDERATION AND IN A FEDERATION INTERNAL POWER IS SHARED. THE DOCUMENT DEFINING THE LIMITS OF INTERNAL POWER OF THE TWO LEVELS OF GOVERNMENT HERE IS THE BNAA AND CANADA ASKED THE BRITISH PARLIAMENT TO BE THE GUARDIAN OF IT. IN EFFECT THE FEDERAL GOVERNMENT NOW WANT TO CHANGE THE BALANCE OF POWER UNILATERALLY AND TO GET THE BRITISH ARBITRATOR TO SIDE WITH THEM.

3. DURING THE PAST MONTHS WE HAVE BEEN UNCERTAIN OF TRUDEAU'S INTENTIONS AND HAVE NOT WISHED TO DO ANYTHING TO PREJUDICE ANY PLANS HE MIGHT HAVE ULTIMATELY TO SECURE SOME CONSENSUS IN

/CANADA.

CANADA OR WHICH MIGHT BE INTERPRETED AS INTERFERENCE IN CANADA'S INTERNAL AFFAIRS. HENCE OUR UNWILLINGNESS TO SAY ANYTHING IN PUBLIC AND HMG'S UNWILLINGNESS TO UNDERTAKE ANY WIDE AND DEFINITIVE ENQUIRY INTO THE CONSTITUTIONAL POSITION OF THE BRITISH PARLIAMENT, WHICH WAS ANYWAY IMPOSSIBLE IN ADVANCE OF RECEIPT OF A JOINT RESOLUTION FROM THE CANADIAN PARLIAMENT AND WITHOUT KNOWLEDGE OF THE CIRCUMSTANCE IN CANADA UNDER WHICH ANY JOINT RESOLUTION MIGHT BE SENT. THE ACTION OF THE INDEPENDENT FAC HAS NOW COVERED SOME OF THE GROUNDS AND THE PAST STATEMENTS MADE IN THE BRITISH HOUSES SHOULD BE INTERPRETED IN THE CONTEXT DESCRIBED IN PARA 77 OF THE COMMITTEE'S REPORT. MRS THATCHER'S ORAL COMMITMENTS TO TRUDEAU AND CANADIAN MINISTERS WERE NO MORE THAN A REPETITION OF THE CONTENT OF THOSE STATEMENTS AND HER MESSAGE OF DECEMBER 5 TO TRUDEAU MERELY SAID THAT THERE WAS NO CHANGE IN HMG'S POLICY SINCE THOSE MEETINGS.

4. MORE BROADLY I SUGGEST WE BASE OURSELVES ON THE LINE ENCLOSED IN MY LETTER 012/2 OF JAN 19 TO BERTHOUD, STRESSING THAT HMG CANNOT REASONABLY BE SEPERATED TO DETERMINE EXACTLY WHAT IT WILL DO UNTIL THE SITUATION WHICH IS AT PRESENT HYPOTHETICAL HAS BECOME A REALITY.

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CONFIDENTIAL

FM OTTAWA 031350Z FEB 81

TO FLASH FCO

TELEGRAM NUMBER 54 OF 3 FEB 81

MY TELEGRAM NO 53 (OF FEB 2)

CANADIAN CONSTITUTION

ADVANCE COPY
FLASH

[Ltd Dish]

AME 012/1

(93)

Hd/NAD

Hd/CCD

Hd/PCCU

Hd/News D

Hd/Defence D

PS

PS/LPS

PS/Mr Ridley

PS/Mr Blaker

PS/Ld Trefgarne

PS/PUS

Sir E Youde

Mr Day

Sir I Sinclair

Ld H.G. Lemnox

Mr. Harding

Mr. Ure

Mr. Freeland } Legal Adv.
Mr. Parry }

X-18

1. LAST NIGHT TRUDEAU'S OFFICE (REFERRING I BELIEVE TO MRS THATCHER'S MESSAGE OF DEC 5) REITERATED THAT HE DID HAVE MRS THATCHER'S ASSURANCES IN WRITING AND APPARENTLY CHALLENGED HER TO COME CLEAN. THE CONSERVATIVE PARTY ANNOUNCED THAT THEIR COPY OF MR PYM'S NOTES HAD BEEN OBTAINED FROM CANADIAN SOURCES. TO-DAY'S LEADING EDITORIAL IN THE GLOBE AND MAIL ATTACKS TRUDEAU FOR CREATING HIS OWN CRISIS AND, REFERRING TO HIS KNOWN REPUBLICAN PAST, IMPLIES THAT WHAT HE IS DOING IS A CONSPIRACY TO DECLARE CANADA A REPUBLIC WITH HIMSELF AS FIRST PRESIDENT.

2. THE CONSERVATIVES HAD TRUDEAU ON THE DEFENSIVE IN THE HOUSE YESTERDAY AND HAVE ANNOUNCED HOPES OF KEEPING HIM THERE WITH MORE REVELATIONS OF TRUDEAU'S LACK OF CANDOUR.

3. IF MRS THATCHER DOES NOT NOW SAY SOMETHING QUICKLY, I SEE A DANGER THAT WOUNDING ACCUSATIONS MAY BE LAUNCHED AGAINST US, IMPLYING UNWORTHY MOTIVES FOR OUR KEEPING MUM AND LETTING LEAKS DRIBBLE OUT THE TRUTH SLOWLY AT A TIME WHEN TRUDEAU IS SAYING THAT HE IS BOUND BY THE RULES GOVERNING PRIVATE CONVERSATIONS BETWEEN MINISTERS.

4. I NOW THEREFORE URGE STRONGLY THE COURSE SUGGESTED IN MY TELEGRAM NO 49 SO THAT WE CAN EXPLOIT TO THE FULL THE PRESENT MOOD HERE. IF A MESSAGE IS SENT I SUGGEST THAT, IN VIEW OF TRUDEAU'S CHALLENGE, IT SHOULD PROPOSE EARLY PUBLICATION AT A TIME TO BE COORDINATED BETWEEN THE TWO PRIME MINISTERS' OFFICES. THE SOONER THE MESSAGE CAN COME AND THE CONTENTS GET OUT THE BETTER.

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SECRET

DESKBY 020900Z FEB
FM OTTAWA 011930Z FEB
TO IMMEDIATE FCO
TELEGRAM NUMBER 50 OF 1 FEBRUARY

MY IMMEDIATELY PRECEDING TELEGRAM.

CANADIAN CONSTITUTION.

1. FOLLOWING IS PUT FORWARD AS A TENTATIVE DRAFT MESSAGE IN THE HOPE THAT IT MIGHT BE HELPFUL.

2. DRAFT BEGINS. I HAVE BEEN WATCHING WITH CLOSE INTEREST THE PROGRESS OF YOUR CONSTITUTIONAL DEBATE AND WAS GRATEFUL TO YOU FOR SO CLEARLY GIVING FRANCIS PYM YOUR THOUGHTS WHEN HE SAW YOU BEFORE CHRISTMAS. I EXPECT THAT YOU HAVE BEEN WATCHING EQUALLY CLOSELY THE DEVELOPMENT OF OPINION IN THE BRITISH PARLIAMENT.

3. WHEN WE MET ON JUNE 25 WE DISCUSSED YOUR HOPES OF BEING ABLE TO SECURE THE PATRIATION OF THE CANADIAN CONSTITUTION. AT THAT TIME OUR CONVERSATION DID NOT GO INTO THE DETAILS OF THE PATRIATION AND AMENDING FORMULA WHICH YOU HAD IN MIND. WE DID TOUCH BRIEFLY ON THE POSSIBILITY THAT THE NEGOTIATIONS THEN IN PROGRESS WITH THE PROVINCIAL PREMIERS MIGHT NOT LEAD TO UNANIMOUS AGREEMENT, THOUGH YOU APPEARED HOPEFUL THAT IF NOT UNANIMOUS AGREEMENT AT LEAST A LARGE MEASURE OF AGREEMENT WOULD BE SECURED. I WARNED YOU THAT INEVITABLY ANY DISAGREEMENTS IN CANADA WOULD BE REFLECTED IN THE DEBATES AT WESTMINSTER AND THEREFORE HOPED FOR ALL OUR SAKES THAT YOUR NEGOTIATIONS WITH YOUR PREMIERS WOULD BE SUCCESSFUL.

4. DURING AUGUST AS IT INCREASINGLY BECAME APPARENT THAT THE NEGOTIATIONS WITH THE PREMIERS WERE NOT GOING WELL OUR HIGH COMMISSIONER WARNED OFFICIALS AND MINISTERS IN OTTAWA THAT POLITICS WAS NOT AN EXACT SCIENCE AND THAT ANY HIGHLY CONTENTIOUS ACTION IN CANADA WOULD BE BOUND TO LEAD TO EFFECTIVE LOBBYING OF MEMBERS OF BOTH HOUSES IN WESTMINSTER AND THIS WOULD INCREASE THE UNCERTAINTY WHETHER HMG COULD GET THE FINAL RESOLUTION THROUGH THE BRITISH PARLIAMENT. THE HIGH COMMISSIONER WARNED THAT THE RISK OF PARLIAMENTARY ACCIDENTS AT WESTMINSTER COULD BE SERIOUS AND THAT IF THE ISSUE WERE SUB JUDICE IN CANADA AT THE TIME THE BRITISH PARLIAMENT WERE TO BE ASKED TO DEAL WITH IT, THIS WOULD FURTHER INHIBIT THE BRITISH PARLIAMENT FROM ACTING QUICKLY.

5. WE KNEW FROM THE LEAKED CABINET PAPER OF AUG 30 THAT YOUR OPTIONS WERE STILL OPEN IN ADVANCE OF YOUR FIRST MINISTERS CONFERENCE IN SEPTEMBER AND THE FIRST CLEAR INDICATION OF WHAT YOU HAD IN MIND CAME WHEN YOUR LEGAL ADVISERS CONSULTED WITH OUR

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TOP 2 FEB 1981
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LEGAL ADVISERS AT THE END OF SEPTEMBER . THE PUBLICATIONS OF YOUR PROPOSALS IN CANADA CAME ON OCT 2 BUT AS MY SUPRISE INDICATED TO MARK MACGUIGAN AND JOHN ROBERTS WHEN THEY CALLED ON ME ON OCT 6, THEIR EXPLANATION PROVIDED THE FIRST SPECIFIC INDICATION OF THE FULL EXTENT OF WHAT YOU HAD IN MIND: AND AS I THUMBED THROUGH THE LENGTHY TEXT OF YOUR PROPOSED CHARTER OF RIGHTS I TOLD BOTH MINISTERS THAT I HAD NOT EXPECTED TO BE ASKED TO GET SUCH A LENGTHY MEASURE THROUGH PARLIAMENT: AND I WARNED THAT THE INCLUSIONS OF THE CHARTER OF RIGHTS WOULD MUCH INCREASE MY DIFFICULTIES AND WONDERED WHETHER THE CHARTER COULD NOT BE REMOVED SO THAT ALL THE BRITISH PARLIAMENT WAS ASKED TO DO WAS PATRIATE THE NAA WITH AN AMENDING FORMULA. LATER WHEN PETER CARRINGTON SAW YOUR TWO MINISTERS HE WARNED THEM CLEARLY OF THE DIFFICULTY WHICH THE INCLUSION OF THE CHARTER OF RIGHTS WOULD ENTAIL IN THE PASSING OF THE MEASURE THROUGH THE LORDS.

6. IN OCTOBER WE HAD NO IDEA HOW FAR DISCUSSIONS OF YOUR PROPOSALS IN THE CANADIAN PARLIAMENT WOULD LEAD TO THEIR AMENDMENT OR TO A NATIONAL CONSENSUS ON THEM: NOR DID WE WANT TO SAY OR DO ANYTHING AT WESTMINSTER WHICH MIGHT BE THOUGHT TO BE TRYING TO INFLUENCE THE MINDS OF CANADIAN MEMBERS OF PARLIAMENT OR SENATORS.

7. AS CHRISTMAS APPROACHED IT BECAME CLEAR THAT YOUR PROPOSALS WERE IN FACT VERY CONTENTIOUS INDEED IN CANADA AND THAT SIX PROVINCES WERE INSTITUTING COURT ACTION WITH A FURTHER TWO HESITANT WHETHER TO JOIN THEM AND ONLY TWO PROVINCES SUPPORTING THE FEDERAL GOVT. AT WESTMINSTER THE LOBBYING OF BACKBENCHERS BY CANADIANS WAS EVEN MORE VIGOROUS THAN I CERTAINLY HAD ANTICIPATED AND THE SELECT COMMITTEE ON FOREIGN AFFAIRS (ONE OF OUR INDEPENDENT STANDING COMMITTEES OF BACKBENCHERS) WAS UNDERTAKING AN INVESTIGATION INTO THE ROLE OF THE BRITISH PARLIAMENT IN RELATION TO THE BRITISH NORTH AMERICA ACT. I THEREFORE ASKED FRANCIS PYM TO GIVE YOU AN AUTHORITATIVE VIEW OF THE STATE OF PARLIAMENTARY OPINION IN WESTMINSTER AND TO WARN YOU OF THE SERIOUS POSSIBILITY THAT YOUR PROPOSALS WOULD NOT BE ACCEPTABLE TO THE UK PARLIAMENT. BEARING IN MIND THAT POLITICS IS THE ART OF THE POSSIBLE, I WANTED YOU TO BE IN NO DOUBT OF THE WAY IN WHICH OPINION WAS MOVING AT WESTMINSTER. DURING JANUARY THAT OPINION WAS CLEARLY HARDENING AND WHEN HE SAW HER IN JAN 23 FRANCIS PYM ASKED YOUR HIGH COMMISSIONER IN LONDON TO MAKE THAT CLEAR TO YOU. THE PUBLICATION OF THE REPORT OF THE FOREIGN AFFAIRS COMMITTEE ON JAN 21 HAS FURTHER INFLUENCED OPINION AND WHAT FRANCIS PYM TOLD JEAN WADDS IS NOW EVEN MORE TRUE.

8. I REALISE HOW STRONGLY YOU PERSONALLY FEEL ABOUT THE NEED TO INCLUDE A CHARTER OF RIGHTS IN THE BNAA BEFORE IT IS PATRIATED. THE BRITISH PARLIAMENTS RESPONSIBILITY FOR THE BNAA WAS A RESPONSIBILITY RETAINED IN 1931 ONLY AT THE SPECIFIC REQUEST OF THE CANADIAN GOVERNMENT AND PARLIAMENT OF CANADA WITH THE CONCURRENCE OF THE CANADIAN PROVINCES. THIS GUARDIANSHIP OF THE BALANCE OF POWER

CATED TO
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BETWEEN THE FEDERAL GOVERNMENT AND PROVINCES IN THE CANADIAN CONFEDERATION WAS ONLY UNDERTAKEN WITH RELUCTANCE BUT, HAVING BEEN UNDERTAKEN, IS NATURALLY TAKEN SERIOUSLY BY THE BRITISH PARLIAMENT. BRITISH MPS AND PEERS HAVE NOT HITHERTO ENACTED A CHARTER OF RIGHTS FOR THE UNITED KINGDOM AND SOME OF THEM HAVE STRONG VIEWS ON THE SUBJECT, WHILE MANY MP'S FEEL STRONGLY THAT THEY WERE NOT ELECTED TO ENACT SUCH CHARTERS FOR CANADA. WE MUST THEREFORE FACE THE SITUATION THAT IF THE CANADIAN PARLIAMENT PERSISTS WITH ITS PRESENT COURSE IT WILL SERIOUSLY RISK HEADING FOR A COLLISION WITH THE UK PARLIAMENT.

9. THIS CAN BE IN THE INTERESTS OF NONE OF US. AT A TIME WHEN THROUGHOUT THE WORLD PARLIAMENTARY DEMOCRACY IS UNDER CHALLENGE AND WHEN THE FORCES RANGED AGAINST IT ARE MOST THREATENING, IT WOULD BE A TRAGEDY IF TWO MEMBERS OF NATO WERE TO BE SET AT ODDS AGAINST EACH OTHER. A MAJOR DISPUTE BETWEEN OUR PARLIAMENTS ALSO COULD NOT FAIL TO SOUR THE ATMOSPHERE OF THE OTTAWA ECONOMIC SUMMIT CONFERENCE AND THE MELBOURNE COMMONWEALTH CONFERENCE LATER THIS YEAR AT BOTH OF WHICH I AM SO MUCH LOOKING FORWARD TO WORKING WITH YOU ON THE PRESSING GLOBAL PROBLEMS WHICH FACE US.

10. I HAVE MENTIONED THAT THE BRITISH GOVERNMENT AND PARLIAMENT ONLY WITH RELUCTANCE ACCEPTED THE GUARDIANSHIP OF THE CANADIAN CONSTITUTION IN 1931. I THINK I CAN SPEAK FOR BOTH HOUSES OF THE UK PARLIAMENT WHEN I SAY HOW RELIEVED WE SHOULD BE TO BE ASKED TO PATRIATE THE BNA A WITH AN AMENDING FORMULA AND HOW MUCH WE HOPE EVEN AT THIS LATE STAGE YOU MAY BE ABLE TO MODIFY YOUR PROPOSALS SO AS TO OBTAIN THE BROAD CONCENSUS IN CANADA TO ENABLE US TO TAKE QUICK ACTION AT WESTMINSTER.

11. I PROPOSE TO INFORM PARLIAMENT ON FEB 8 THAT I HAVE MADE MY VIEWS KNOWN TO YOU ON THE ABOVE LINES.

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LEGAL ADVISERS
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PS/LPS
PS/MR RIDLEY
PS/PUS
MR DAY
MR URE

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GRS 830

S E C R E T

SECRET

DESKBY 020900Z FEB

FM OTTAWA 011840Z FEB 81

TO IMMEDIATE FCO

TELEGRAM NUMBER 49 OF 1 FEBRUARY

MY TELNO 47 (OF 31 JANUARY)

CANADIAN CONSTITUTION

1. I HAVE NOW BEEN ABLE TO READ THE FOREIGN AFFAIRS COMMITTEE'S REPORT WHICH SUGGESTS THAT THE ANSWER WHICH MR HATTERSLEY GAVE TO THE HOUSE ON 10 JUNE 1976 AND ALL SUBSEQUENT STATEMENTS IN THE HOUSE TO THE SAME EFFECT MAY HAVE BEEN BASED ON DEFECTIVE REASONING AND THAT THE BRITISH PARLIAMENT IS INDEED BOUND TO TAKE ACCOUNT OF CANADA'S FEDERAL NATURE AND THE NEED FOR SOME CONSENSUS IN CANADA BEFORE, AS THE GUARDIAN OF THE CONSTITUTION, THE BRITISH PARLIAMENT TAKES ACTION TO CHANGE THE BALANCE OF POWER BETWEEN THE CANADIAN FEDERAL GOVERNMENT AND PROVINCIAL GOVERNMENTS. I ASSUME THAT, EVEN THOUGH THIS REPORT IS NOT BINDING ON HMG IT WILL CARRY GREAT WEIGHT WITH PARLIAMENT AND THAT ITS PUBLICATION WILL GIVE ADDED WEIGHT TO WHAT MR PYM TOLD MRS WADDS ON JAN 23 (YOUR TELNO 20). I ALSO ASSUME THAT YOU WILL BE CONSIDERING WHETHER TRUDEAU'S STATEMENTS HERE (MY TELEGRAMS NO 45 AND 47) NECESSITATE ANY ACTION IN LONDON. THE FOLLOWING THOUGHTS MAY THEREFORE BE HELPFUL.

2. NO ACTION COULD BE TAKEN; AND WE COULD PURSUE THE POLICY SUGGESTED IN PARA 7 OF MY TELNOS 553 OF DEC 20. THIS WOULD AVOID ANY ACCUSATION THAT HMG ARE SEEKING TO INFLUENCE THE DEBATE IN OTTAWA AND GIVE LITTLE TARGET FOR TRUDEAU TO SNIPE IN HIS ATTEMPTS TO BEAT THE ANTI-COLONIALIST DRUM TO WHIP UP SUPPORT FOR HIS UNILATERAL ACTION.

3. I AM, HOWEVER, A LITTLE UNEASY ABOUT LETTING THE RECORD ON OUR SIDE STAND ON THE STATEMENTS WHICH HAVE BEEN MADE IN PARLIAMENT WHICH IMPLY COMMITMENT WHICH TRUDEAU SPOTLIGHTS HERE AND DISTORTS AS AN ABSOLUTE COMMITMENT TO SUPPORT HIM IN WHAT HE WANTS TO ACHIEVE. AS THE RECORD NOW STANDS HE COULD AND WOULD ARGUE THAT HE IS THE VICTIM OF A BREACH OF PROMISE IF HMG DID NOT PUT A JOINT RESOLUTION OF THE CANADIAN PARLIAMENT TO THE BRITISH PARLIAMENT ON ITS RECEIPT AT WESTMINSTER AND IF HMG DID NOT ATTEMPT SERIOUSLY TO GET IT QUICKLY PASSED BY THE UK PARLIAMENT.

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S E C R E T

4. SO LONG AS THE JOINT COMMITTEE OF THE CANADIAN HOUSE/SENATE HAS BEEN CONSIDERING THE CONTENT OF THE THE DRAFT RESOLUTION COMMENT BY HMG COULD OBVIOUSLY BE ATTACKED AS INTERFERENCE. BUT ONCE THE JOINT COMMITTEE'S REPORT HAS GONE TO BOTH HOUSES HERE FOR FINAL DEBATE AND ACCEPTANCE, THE DEBATE SHOULD BE MORE ABOUT THE WAY IN WHICH THE FEDERAL GOVT IS PROCEEDING THAN ABOUT THE CONTENT OF THE RESOLUTION. AS THAT WAY INVOLVES HMG AND THE BRITISH PARLIAMENT IT WOULD SEEM APPROPRIATE (INDEED PERHAPS NECESSARY) THAT THERE SHOULD BE NO MISUNDERSTANDING ABOUT HOW HMG AND THE BRITISH PARLIAMENT VIEW THE SITUATION.

5. FROM OUR POINT OF VIEW THE BEST SITUATION WOULD BE FOR THE FEDERAL GOVT TO COMPROMISE AT THE LAST MOMENT, TO TAKE OUT THE BILL OF RIGHTS, AND SEND US A REQUEST FOR PATRIATION AND AN AMENDING FORMULA WHICH HAD THE SUPPORT OF A CONSENSUS HERE. THAT IS WHAT THE CONSERVATIVES HAVE SUGGESTED AND ARE PUSHING IN THE HOPE THAT THE PROVINCIAL PREMIERS MEETING ON FEB 9 WILL ENDORSE THEIR VIEW AND OFFER TRUDEAU A CONSENSUS WHICH WILL HAVE ENOUGH APPEAL TO DOUBTERS IN THE LIBERAL CAUCUS TO FORCE HIM TO ACCEPT A COMPROMISE. MY CONVERSATION WITH SENATOR TREMBLAY ON JAN 29 LEADS ME TO BELIEVE THAT THE CONSERVATIVES ARE NOT CONFIDENT THEY WILL SUCCEED. (MR EPP'S (CONSERVATIVE SPOKESMAN ON THE CONSTITUTIONAL ISSUE) LUNCH WITH ME TOMORROW WILL GIVE ME A SECOND OPINION.) A MANITOBA COURT DECISION COULD UPSET THE TRUDEAU APPLECART IF IT WENT AGAINST THE FEDERAL GOVT BUT ITS TIMING IS UNCERTAIN AND THE QUOTE IF UNQUOTE IS A BIG ONE. MY HUNCH IS HIS EXPRESS MAY YET BE DERAILED; BUT THAT IS ONLY A HUNCH. THE EVIDENCE STILL POINTS THE OTHER WAY.

6. THE SECOND BEST SOLUTION IS THAT TRUDEAU FAILS SO THAT THE CUP FOR THE TIME BEING PASSES FROM US.

7. THE WORST SOLUTION WILL BE FOR THE RESOLUTION TO COME TO WESTMINSTER IF THE BRITISH PARLIAMENT WILL NOT PASS IT. HOW WE DEAL WITH THAT NEED NOT BE DECIDED NOW; BUT WHAT WE DECIDE NOW COULD AFFECT OUR TACTICS THEN.

8. I CAN SEE SOME ADVANTAGE IN OUR NOW ATTEMPTING TO SET THE RECORD STRAIGHT IN A MANNER WHICH WOULD REMOVE THE POSSIBILITY OF VALID CHARGES OF BREACH OF FAITH, ACCENTUATE THE FACT THAT THE CONSTITUTIONAL ISSUE IS MORE A PARLIAMENT TO PARLIAMENT ISSUE THAN AN INTERGOVERNMENTAL ONE, UNDERLINE THE DANGERS OF ALLOWING THE TWO PARLIAMENTS TO CONTINUE ON A COLLISION COURSE, AND MASSAGE THE DOUBTS OF POTENTIAL WAVERERS IN THE LIBERAL AND NDP RANKS.

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9. THIS MIGHT TAKE THE FORM OF A PERSONAL MESSAGE FROM MRS THATCHER WHICH WAS FOLLOWED UP BY SOME STATEMENT IN PARLIAMENT . THE QUESTION OF TIMING WOULD THEN ARISE. WE COULD WAIT UNTIL AFTER THE MANITOBA DECISION; BUT IN VIEW OF THE UNCERTAINTIES I DOUBT IF THAT WOULD BE WISE. WE COULD WAIT UNTIL TOWARDS THE END OF THE FINAL DEBATES (I EXPECT TRUDEAU TO GUILLOTINE THEM IN THE LAST DAYS OF FEBRUARY) AND SEE HOW THE DEBATES UNFOLD. OR WE COULD ACT ON THE EVE OF THE FINAL DEBATES SO THAT THE STATEMENT COULD BE TAKEN INTO ACCOUNT BY THE PROVINCIAL PREMIERS ON FEB 9, IE A MESSAGE TO TRUDEAU ON FEB 6 WITH A STATEMENT ON FEB 8.

10. TRUDEAU IS UNPREDICTABLE AND THE UNEXPECTED COULD HAPPEN AT ANY TIME, INCLUDING EVEN HIS RESIGNATION IN THE FACE OF EVIDENCE (ACTUAL OR IMAGINED) OF LOSS OF SUPPORT IN HIS CAUCUS. ON BALANCE AND WELL AWARE AS I AM OF THE DANGER THAT ANYTHING WE SAY WILL BLOW BACK IN OUR FACES, I FAVOUR COURSE SUGGESTED IN PARA 8.

11. SEE MY IMMEDIATELY FOLLOWING TELEGRAM.

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PS/MR RIDLEY

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S E C R E T

OUT TELEGRAM

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TEL NO

1	ZCZC
2	GRS
3	CONFIDENTIAL
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6	FM FCO 04 FEBRUARY 1981
7	IMMEDIATE TO OTTAWA
8	TELEGRAM NO
9	Your telno 55: CANADIAN CONSTITUTION
10	1. I am reluctant to recommend that the Prime Minister should
11	for the time being send another message to Mr Trudeau. In
12	answer to a question by Mr MacNamara in the House of Commons this
13	<i>yesterday</i> afternoon she said:
14	quote
15	Mr Speaker, matters concerning three line whips are not usually
16	discussed until we have the business before us for the next week.
17	We have not yet received a request from the Government or
18	Parliament of Canada. I take the view which I have always taken.
19	When we do receive a request from the Government and Parliament
20	of Canada we have to deal with it as expeditiously as possible in
21	accordance with precedent and in accordance with the law. unquote
22	2. We have considered the message you put forward very care-
23	fully. We cannot let Mr Trudeau continue to build on
24	Ministerial statements or undertakings without correction. On
25	the other hand, the message which you put forward in your telno

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NNNN ends telegram	BLANK	Catchword 50
File number	Dept Private Office	Distribution Minimal NAD Mr Freeland PS Mr Parry PS/LPS CCD PS/Mr Ridley PCCU PS/Mr Blaker News Dept PS/PUS Mr Day Mr Ure
Drafted by (Block capitals) G G H Walden		
Telephone number 233 5791		
Authorised for despatch		
Comcen reference	Time of despatch	

OUT TELEGRAM (CONT)

Classification and Caveats
CONFIDENTIAL

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1 <<<<
2 50 suggests that we are now changing policy in an important
3 respect and should ask Mr Trudeau to abandon his Charter of
4 Rights and Freedoms. All the indications we have from your
5 reporting and elsewhere are that this is something he cherishes
6 and is unlikely to abandon in a hurry. He seems least likely
7 of all to give it up in response to a request from us, which he
8 would see as interference.
9 3. Moreover, I see danger in sending a message of this kind
10 and at the same time telling Mr Trudeau that we propose to make
11 a similar public statement within a certain period. He would
12 surely see this as a gun pointed at his head. This could give
13 him the opportunity to use the UK as a scapegoat.
14 4. As you know, we have recently been reviewing the lines of
15 our policy. As the Prime Minister's statement in the Commons
16 makes clear, there has been no change. Our central aim is to
17 maintain good relations with the Federal Government. At this
18 stage I think this is best served by continuing to keep a low
19 profile, and not responding hastily to remarks made by Mr
20 Trudeau under pressure in Canada.
21 5. In spite of this, it may well be useful for us to continue
22 to underline publicly the difficulties which the present
23 Canadian proposals could cause us in Parliament. We are
24 preparing material which Ministers can use in Parliament which
25 will make this point and help to put Mr Trudeau's recent remarks
26 into perspective - but without, we hope, provoking him further.
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28 CARRINGTON
29 NNNN
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NNNN ends
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Catchword