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GRS 850
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DESKBY 090900Z FEB
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TO IMMEDIATE FCO
TELEGRAM NUMBER 69 OF 8 FEBRUARY

Read in full

CANADIAN CONSTITUTION

1. TRUDEAU IS UNPREDICTABLE AND I CANNOT PRETEND TO KNOW HIS GAME PLAN: AND WHAT FOLLOWS IS LARGELY CONJECTURAL.

IT MAY NEVERTHELESS BE HELPFUL TO YOU AS ONE POSSIBLE SCENARIO OF WHICH WE SHOULD TAKE ACCOUNT IN OUR OWN CALCULATIONS.

2. SOME MONTHS AGO I HEARD THAT WHEN BRIEFING CANADIAN STAFFS IN NEW YORK MR KIRBY THE DEPUTY MINISTER MOST DIRECTLY INVOLVED WITH THE CONSTITUTION SAID THAT IF MR TRUDEAU WAS THWARTED BY THE BRITISH HE WOULD NOT HESITATE TO FOLLOW MACKENZIE KINGS EXAMPLE OVER THE BYNG INCIDENT.

3. TO BEGIN WITH THE CANADIANS THOUGHT THAT OUR PARLIAMENT WOULD NOT BE INTERESTED IN THE CONSTITUTIONAL ISSUE AND THAT HMG WOULD BE ABLE TO GET THEIR RESOLUTION PASSED WITH LITTLE DIFFICULTY AT WESTMINSTER. FOR TOO LONG THEY FAILED TO RECOGNISE THE INCREASING INDICATIONS TO THE CONTRARY. WHEN THESE INDICATIONS BECAME TOO STRONG TO IGNORE MR TRUDEAU DECIDED THAT HIS BEST COURSE OF ACTION IF HE WAS NOT TO AGGRAVATE HIS DIFFICULTIES WOULD BE TO CONCEAL FROM THE CANADIAN PARLIAMENT THE LIKELIHOOD OF SERIOUS PROBLEMS AT WESTMINSTER. HE HOPED THAT HE COULD THEN FORCE HIS PROPOSALS THROUGH HERE AND AFTERWARDS PUT PRESSURE ON HMG BY ACCUSING IT OF BREACH OF PROMISE AND COLONIALISM IF HMG FAILED TO DELIVER QUICKLY AT WESTMINSTER, AND BY ARGUING CANADA'S CASE AS A SOVEREIGN POWER IN THE UN AND COMMONWEALTH FORA. (THE SUPPORT WHICH HE HAS SO FAR RECEIVED FROM FOR EXAMPLE MESSRS RAMPAL AND WHITLAM MUST HAVE ENCOURAGED HIS HOPES THAT HE COULD EFFECTIVELY PILLORY US IN THAT EVENTUALITY).

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4. THINGS HAVE NOT HOWEVER GONE QUITE ACCORDING TO PLAN. HIS PARLIAMENTARY TIMETABLE HERE HAS SLIPPED A COUPLE OF MONTHS: LEAKS MAINLY FROM CANADIAN SOURCES HAVE REVEALED VIRTUALLY ALL CANADIAN DISCUSSIONS WITH BRITISH MINISTERS AND SHOWN MR TRUDEAU TO HAVE BEEN LESS THAN CANDID WITH CANADIANS AND THEIR PARLIAMENT: HE AND HIS TEAM HAVE BECOME INCREASINGLY EDGY: AND HE HAS FELT HIMSELF FORCED PREMATURELY TO USE HIS NATIONALIST/ANTI COLONIALIST CARD. (HOW FAR HE INTENDS TO PLAY IT IS NOT CLEAR. IF HE WERE TO DECLARE ME PERSONA NON GRATA THAT WOULD BE A SIGN THAT HE WANTED DELIBERATELY TO RAISE THE POLITICAL TEMPERATURE IN BRITAIN TO CREATE MAJOR FRICTION BETWEEN THE TWO COUNTRIES IN THE HOPE THAT THIS COULD BE USED TO HIS ADVANTAGE IN MANIPULATING CANADIAN PUBLIC OPINION). BY THE END OF THE COMING WEEK HE WILL HAVE GOT HIS RESOLUTION AND CHARTER OF RIGHTS THROUGH THE JOINT HOUSE/SENATE COMMITTEE AND ALREADY MR CHRETIEN HAS SAID THAT PARLIAMENT IS BY THAT ACTION OBLIGATED TO THE PEOPLE OF CANADA AND MUST DELIVER AND GET BRITAIN TO DO SO QUICKLY.

5. MEANWHILE THE POLITICAL SITUATION IN CANADA HAS BEEN SHIFTING IN A WAY WHICH COULD ENCOURAGE MR TRUDEAU TO APPEAL TO THE PEOPLE. MR CLARK'S LEADERSHIP OF THE PARTY IS UNDER ATTACK: ONE CONSERVATIVE MAVERICK (MR YURKO) HAS OPENLY SIDED WITH THE FEDERAL GOVERNMENT ON THE CONSTITUTIONAL ISSUE: THERE IS TO BE A CONSERVATIVE PARTY CONVENTION ON FEBRUARY 27 TO DECIDE WHETHER TO HOLD A LEADERSHIP CONVENTION: AND OTHER PARTY MEMBERS ARE ROOTING AGAINST MR CLARK. IF THE PARTY DOES DECIDE ON HOLDING A LEADERSHIP CONVENTION THE PARTY WILL BE EVEN LESS EFFECTIVE UNTIL MR CLARK'S LEADERSHIP HAS BEEN CONFIRMED OR A SUCCESSOR CHOSEN AND RUN IN. MR DAVIS PREMIER OF ONTARIO HAS CALLED AN ELECTION FOR MARCH AND THIS COULD HAVE IMPLICATIONS FOR ONTARIO'S SUPPORT OF THE TRUDEAU CONSTITUTIONAL PACKAGE: AND THE EDITORIAL IN TODAY'S GLOBE AND MAIL SEEKS TO UNDERMINE THAT SUPPORT. A QUEBEC PROVINCIAL ELECTION MAY BE IMMINENT AND MUST BE HELD BEFORE THE END OF THE YEAR. IT WILL MOST LIKELY BRING TO POWER THE LIBERALS HEADED BY MR RYAN WHO DEEPLY OPPOSES MR TRUDEAU'S UNILATERAL IDEAS AND WILL BE A MUCH MORE DIFFICULT OPPONENT THAN MR LEVESQUE, DISCREDITED BY THE LOSS OF HIS 1980 REFERENDUM. A LONG DELAY COULD THUS BE A SERIOUS THREAT TO THE ULTIMATE SUCCESS OF MR TRUDEAU'S PLAN. THE FEDERAL GOVERNMENT HAVE MADE MUCH OF THEIR VIEW THAT THEIR UNILATERAL ACTION IS A POLITICAL ACT AND NO BUSINESS OF THE COURTS. MR TRUDEAU HAS RECENTLY TWICE INDICATED THAT IF HE IS THWARTED BY WESTMINSTER HE MIGHT GO TO THE COUNTRY IN A GENERAL ELECTION.

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6. ALL THIS SUGGESTS THAT HE MAY NOW BE THINKING OF CALLING A SUMMER ELECTION AND BE QUIETLY PREPARING FOR THAT EVENTUALITY. A FINAL DECISION WOULD BE TAKEN ONCE HE HAD SEEN WHETHER HIS AMENDED CHARTER OF RIGHTS (AMENDED TO MEET THE VIEWS OF MOST OF THE MAIN LOBBIES ON RIGHTS ISSUES) IS SHOWING SIGNS OF SWINGING PUBLIC OPINION BEHIND HIM. AN ELECTION RESULT WHICH WAS DECISIVE AND APPLIED RIGHT ACROSS THE COUNTRY, WHICHEVER WAY IT WENT, WOULD PRESUMABLY BE HELPFUL TO THE BRITISH PARLIAMENT. A RESULT WHICH BROUGHT MR TRUDEAU BACK BUT CONFIRMED THE DIVISION OF CANADA WOULD LEAVE CANADA WORSE OFF AND THE BRITISH PARLIAMENT WITH ITS DILEMMA EVEN MORE SHARPLY DEFINED.

7. IN THIS COMPLEX SITUATION I SEE NO PRACTICABLE CHANGE OF COURSE FOR US.

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