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NOTE FOR THE RECORD

RECORD OF A MEETING BETWEEN THE SECRETARY OF STATE FOR DEFENCE
AND MR MARK MACGUIGAN THE CANADIAN SECRETARY OF STATE FOR
EXTERNAL AFFAIRS AT THE DEPARTMENT OF EXTERNAL AFFAIRS
OTTAWA AT 1500 ON FRIDAY 19TH DECEMBER 1980

Present:

The Rt Hon Francis Pym MC MP
Secretary of State for Defence

The Hon Mark MacGuigan
Secretary of State for External
Affairs

Mr J R Freeland
Second Legal Adviser, FCO

Mr L Legault

Mr B M Norbury
PS/Secretary of State

Mr G Anderson

Mr F Gibson

Miss C Anderson

1. The Secretary of State said that he had spent an interesting day on Thursday at National Defence Headquarters. He had explained to the Canadian Defence Minister then, and wanted to re-emphasise now, the importance the United Kingdom attached to the NATO aim of a real increase in defence expenditure of 3% a year. The threat was becoming greater and it was important for the Allies to hold together. The United Kingdom hoped to do a little more outside the NATO area, in support of the United States and this in its turn required greater Alliance effort within Europe. He had explained in Brussels in the previous week the United Kingdom Government's view that a fresh look at NATO needed to be taken to ensure that, in the very changed circumstances since the Alliance was founded, we were getting the best value for money. It was significant that NATO as an Alliance was spending more on defence than the Warsaw Pact and yet did not seem to be getting so much out of it.

2. Mr MacGuigan agreed that it did not feel that we were doing this; there seemed to be some dispersal of effort. But he hoped that the Alliance would become more united under the new American leadership. So far as out-of-area activities were concerned the Canadians planned to do more in the West Indies, for example by helping with police



training, in part as a counter-weight to the British process of disengagement in the region. He thought that United Kingdom's military commitment to Belize might need to remain for a period after independence.

3. Mr MacGuigan enquired how the Secretary of State's lunch with Mr Trudeau had gone.

4. The Secretary of State said that they had been able to have a good discussion and that he had been able to make clear to the Prime Minister the very real difficulties with which the present Canadian proposals would present the British Government in the Westminster Parliament, and his extreme concern about going ahead with a real possibility of failure. Both Houses were at present reluctant to contemplate doing what, particularly in relation to the Charter of Rights, they thought it was for Canadians to do; they were also hesitant about taking action on proposals which were under legal challenge in Canada.

5. Mr MacGuigan commented that Mr Pym had a very good sense of the British House of Commons so that Mr Trudeau and he had to take what he said about the Westminster Parliament very seriously. But the Canadian Government attached very great importance to the Charter of Rights, more indeed than to patriation in itself. The Charter was the key element. The objection from the Provinces was not so much on substance but to the whole process by which the opportunity to argue with the Federal government about the constitution would be removed from them. The Federal Government's motives were political and there was no bargain for them to strike with the Provinces. The unanimity rule had always previously defeated Federal/Provincial agreement on constitutional changes.

6. The Secretary of State said that the problem was not what the British Government thought but what the British Parliament thought: it would be clear to Parliament that Canada should have her constitution patriated, and with an amendment formula, but not that they should involve themselves further in Canadian business. The whole matter needed to be taken very slowly if the proposals were not to be defeated at Westminster, with what he considered would be very serious consequences indeed. There were strong arguments in favour of the Canadian government's proposals, and their striving for national unity, but these arguments had not yet been presented in Britain.

7. Mr MacGuigan said that the Manitoban court should have reached a judgement by the end of January; he wondered whether a decision in the Federal Government's favour would influence British Parliamentary opinion. Lord Carrington had told him in Brussels that the resolution of the legal position would make a big difference.



8. The Secretary of State said that this would be a great help but would not in itself ensure success. If the judgement went against the Government how long would the Supreme Court take to reach a judgement if the Federal Government appealed to it?
9. Mr MacGuigan said that the Federal Government were reluctant to seek a judgement at this juncture from the Supreme Court since they believed that the questions raised were political and not legal. If they were forced subsequently to make an appeal this would have to be very broad based so as to preempt all other possible Provincial actions and it could take a year for the Supreme Court to make its judgement. Mr Legault confirmed this.
10. The Secretary of State suggested that the two Governments should work closely together on public presentation if the Canadian government decided to go ahead, but he still considered that a lot of time would be needed; it was only very recently indeed that the British government had been acquainted with the full range of the proposals; and despite the assurances the Canadian Government had received from the then Leader of the Opposition and the Liberal Leader he did not believe that they could necessarily deliver their members. And there would also be very considerable difficulties in the House of Lords. The Select Committee's report was unlikely to be helpful. The issues were daily reported in the British press. He was in Ottawa to make the problems absolutely clear.
11. Mr MacGuigan suggested that the two Governments should consult again once the Manitoba Court had made its judgement. (Mr Legault interjected that this might very well not be a black and white one, nor a unanimous one.) Once a formal approach had been made to the British Government it would be possible for the British Government to argue positively in favour of taking the action the Federal Government wanted and this should, as in the case of the Newfoundland precedent, have a significant effect on Parliamentary opinion.
12. The Secretary of State doubted this; we were now living in a different day and age. A firm British Cabinet statement would be important but he did not think that it would take the trick. He hoped the Canadian Government now realised, if they had not fully realised before, how very difficult indeed it would prove for the British Government to get the Canadian proposals through. The Government could propose, but Parliament disposed.
13. The meeting concluded at about 4.00pm.

Ministry of Defence,

22nd December 1980



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