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DESKBY 280900Z OCT 80

PM OTTAWA 271750Z OCT 80

TO IMMEDIATE FCO

TELEGRAM NUMBER 451 OF 27 OCTOBER

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MY IMMEDIATELY PRECEDING TELEGRAM: CONSTITUTION

1. AS FORECAST IN ITS LEAKED PAPER OF AUG 30 THE FEDERAL GOVT IS EXERTING ALL ITS POWERS TO CONTROL THE DEBATE BOTH INSIDE UND OUTSIDE PARLIAMENT AND TO RIDE ROUGH-SHOD OVER OPPOSITION. A MAJOR PROPAGANDA CAMPAIGN (AT A RUMOURED COST OF OVER DOLLARS 6 MILLION) IS IN PROGRESS AND FEDERAL MINISTERS HAVE BEEN RANGING THE COUNTRY-SIDE IN SUPPORT OF THE GOVERNMENT. IN GENERAL THEIR TACTIC IS TO HIGHLIGHT THE ACT OF PATRIATION AS ACCORDING WITH CANADA'S DIGNITY AND ADULTHOOD AND TO GLOSS OVER THE AMENDMENTS TO THE NORTH AMERICA ACT WHICH THE GOVERNMENT IS SEEKING BEFORE PATRIATION.

2. IN THE HOUSE THE DEBATE WAS HEATED AND THREATENED TO BECOME VIOLENT AT THE MOMENT OF CLOSURE. MR CLARK CONCENTRATED HIS OPPOSITION ON:-

(A) THE QUESTIONABLE LEGALITY OF THE GOVERNMENTS' PROPOSALS;
(B) THE IMPROPRIETY OF SEEKING TO MAKE A LAST USE OF THE COLONIAL SITUATION TO FORCE THROUGH CONSTITUTIONAL CHANGE WHICH COULD NOT BE AGREED IN CANADA;

(C) THE DANGERS INHERENT IN THE FEDERAL GOVERNMENT'S PROPOSAL TO WRITE INTO THE CONSTITUTION AUTHORITY FOR IT TO ACHIEVE CONSTITUTIONAL CHANGE THROUGH REFERENDA OF ITS OWN INITIATION; AND
(D) THE WAY IN WHICH MR TRUDEAU WAS PUSHING EVENTS TO ACHIEVE HIS PERSONAL AMBITION.

BEFORE THE DEBATE BEGAN MR CLARK SHOWED SOME DOUBT WHETHER HE FELT THE COUNTRY WAS BEHIND HIM AND A LACK OF CONVICTION ABOUT HIS ABILITY TO KEEP HIS PARTY RANKS UNITED. AS THE DEBATE WORE ON HE BECAME INCREASINGLY EFFECTIVE AND SEEMED TO WIN ON POINTS WITH A THOROUGHLY AROUSED PARTY BEHIND HIM. HIS ATTEMPT TO SUBMIT AN ALTERNATIVE PROPOSAL COVERING SIMPLE PATRIATION WITH THE VANCOUVER AMENDING FORMULA WAS DEFEATED (132 - 112).

3. THE NDP WERE SCHIZOPHRENIC, TORN BETWEEN THEIR POLITICAL BASE OUT WEST AND THEIR CENTRALIST PHILOSOPHY. AFTER MR TRUDEAU HAD PROMISED TO THINK AGAIN OVER GRANTING PROVINCES THE RIGHT TO LEVY INDIRECT TAXES ON AND TO SHARE POWERS OVER INTERPROVINCIAL TRADE IN NON-RENEWABLE RESOURCES. MR BROADBENT AGREED TO GIVE THE FEDERAL GOVT GENERAL SUPPORT OVER ITS PROPOSALS AND VOTED WITH IT ON THE MOTION THOUGH AGAINST IT ON THE CLOSURE OF DEBATE.

4. MR TRUDEAU'S MASTERY OF HIS OWN PARTY CAUCUS SEEMS COMPLETE.

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5. THE FEDERAL GOVT LOUDLY PROCLAIMS THAT PUBLIC OPINION IS ON ITS SIDE; BUT IT HAS REFUSED TO RELEASE THE RESULTS OF ANY OF ITS RECENT POLLS. THE LAST PUBLISHED GALLUP POLL (MY LETTER OF 18 SEPT TO BERTHOUD) WAS BASED ON SOUNDINGS IN EARLY AUGUST AND REVEALED ONLY 27% IN FAVOUR OF UNILATERAL PATRIATION, WITH 26% FIRMLY AGAINST. THE OTTAWA MEDIA ENERGETICALLY SUPPORT THE FEDERAL GOVT. ELSEWHERE PRESS OPINION HAS BEEN WIDELY CRITICAL.

6. IN QUEBEC LEADING EDITORIALS HAVE BEEN ALMOST UNIVERSALLY HOSTILE TO THE PROPOSED UNILATERAL ACTION. SO HAS BEEN MR CLAUDE RYAN, LEADER OF THE QUEBEC LIBERAL OPPOSITION. MR LEVESQUE HAS VOWED ALL-OUT WAR AGAINST IT AND PROMISED TO CARRY HIS FIGHT TO LONDON, IF NEED BE. THE PUBLIC ARE PROBABLY FAIRLY EVENLY DIVIDED. MR TRUDEAU'S PERSONAL PRESTIGE IS ENORMOUS BUT THE NOES ONLY GOT A LITTLE MORE THAN HALF THE FRANCOPHONE VOTE IN LAST MAY'S REFERENDUM AND MR TRUDEAU'S CENTRALIST CONVICTIONS ARE SUSPECT IN THE PROVINCES.

7. IN ONTARIO THE GLOBE AND MAIL (THE NEAREST TO A NATIONAL NEWSPAPER IN CANADA) HAS COME OUT FIRMLY AGAINST THE GOVT AND THERE ARE SIGNS THAT MEMBERS OF THE PROVINCIAL TORY PARTY ARE GROWING INCREASINGLY CONCERNED AT THE WAY IN WHICH THEIR PREMIER DAVIS HAS LINED UP WITH MR TRUDEAU AGAINST THE FEDERAL TORIES (DAVIS DID IN FACT CRITICISE THE USE OF THE GUILLOTINE LAST WEEK). THE PROVINCE IS ESSENTIALLY CANADA'S QUOTE FAT CAT UNQUOTE AND WOULD BENEFIT FROM STRONGER POWERS IN OTTAWA; MOREOVER THE POPULATION RESENT THE NEW RICHNESS OF THE WEST. WHILE ONTARIANS MAY BE UNEASY OVER TRUDEAU'S HASTE, I SEE NO SIGN THAT PREMIER DAVIS IS OUT OF LINE WITH HIS ELECTORATE.

8. IN NEW BRUNSWICK PREMIER HATFIELD HAS A TENUOUS HOLD OVER THE ADMINISTRATION OF A PROVINCE WHERE A LARGE ACADIAN FRANCOPHONE MINORITY VOTES LIBERAL. THOUGH CLEARLY UPSET BY TRUDEAU'S UNILATERAL ACTION HE CAN HARDLY RISK OVERT OPPOSITION AND HAS TAKEN HIS CUE FROM ONTARIO. WITH THE PROSPECT THAT ITS OFF-SHORE OIL RESOURCES MAY BE WHIPPED FROM UNDERNEATH ITS NOSE NEWFOUNDLAND IS VIGOROUSLY LINED UP WITH THE WEST. PRINCE EDWARD ISLAND WITH ITS 110,000 POPULATION HARDLY COUNTS; AND NOVA SCOTIA WITH A STRONG LIBERAL MINORITY IS COUTIOUSLY RESERVING ITS POSITION. OVER THE PAST WEEK-END THE PREMIER OF SASKATCHEWAN WAS EXPLORING THE POSSIBILITY OF 6 JOINT ACTIONS BY SAAKATCHEWAN, PEI, NEW BRUNSWICK AND NOVA SCOTIA TO INITIATE SOME COMPROMISE PROPOSAL. SO FAR THERE HAS BEEN NO INDICATION WHAT MIGHT BE.

9. OUT WEST PUBLIC OPINION IS HARD TO FATHOM. LOYALTY TO CANADA IS DEEPLY FELT BY JOHN CITIZEN WHO HAS NOT YET UNDERSTOOD THE DISTINCTION BETWEEN PATRIATION AND AMENDMENT OF THE NORTH AMERICA ACT. INSTINCTIVELY HE WANTS TO GO ALONG WITH PATRIATION AND A UNITED CANADA; NEVERTHELESS HE IS SUSPICIOUS OF OTTAWA AND RESENTFUL OF ONTARIO. OUT IN THE BOONDOCKS OF BRITISH COLUMBIA LAST WEEK I

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WAS STRUCK BY THE GENERAL RELUCTANCE TO OPPOSE PATRIATION AND THE CHANCES THAT THE FEDERAL GOVT MIGHT (IN SPITE OF MR TRUDEAU) PERSUADE THE POPULACE TO ACQUIESCENCE. THERE WAS A GENERAL FEELING THAT CANADA HAD SURVIVED CONSTITUTIONAL ROWS BEFORE AND THAT IN THE END WOULD THROUGH SOME COMPROMISE SURVIVE AGAIN. ON THE OTHER HAND MR TRUDEAU'S SCORNFUL DISMISSAL LAST THURSDAY OF THE DANGERS OF WESTERN SEPARATISM AND HIS CONTEMPTIOUS REMARKS ABOUT PREMIER BLAKENEY'S HESITATION MUST HAVE INCREASED THE ODDS ON MORE CONFRONTATION; SO TOO MAY THIS WEEK'S COMING FEDERAL BUDGET AN NEW ENERGY POLICY. PREMIER BLAKENEY'S HESITATIONS ARE KNOWN TO BE THE RESULT OF HIS FEARS THAT HE MAY LOSE THE SUPPORT OF HIS ELECTORATE IF HE GOES TOO FAR TO MEET OTTAWA. IN ALBERTA PREMIER LOUGHEED IS IN FIRM CONTROL AND ON OCT 28 TABLED LEGISLATION TO PERMIT REFERENDA IN THE PROVINCE; HE HAS ALSO FOR SOME TIME BEEN WORKING ON POSSIBLE ACTION TO COUNTER NEW FEDERAL ENERGY MEASURES, IF NEED BE. TEN DAYS AGO ONE OF HIS BACKBENCHERS MENTIONED TO ME THAT ALBERTA MIGHT EVEN BOYCOTT ONTARIAN MANUFACTURERS (EXCLAM). THOUGH I HARDLY THINK THIS LIKELY, I HAVE HEARD COMMENT LIKENING PUBLIC OPINION OUT WEST TO THAT OF MASSACHUSETTS BEFORE THE BOSTON TEA PARTY; YET I DOUBT IF WESTERN ALIENATION HAS YET PROCEEDED QUITE THAT FAR. THE FACT THAT THE FEDERAL GOVERNMENT HAS ALMOST CERTAINLY WITHIN THE LAST FEW DAYS DECIDED TO BACK OFF FROM ITS MOST CONTROVERSIAL ENERGY PROPOSALS PROVIDES HOPE THAT IT WILL NOT LET THE SITUATION GET OUT OF HAND AND MAY EVEN PAY MORE RESPECTFUL HEED TO MR BLAKENEY. IF NO COMPROMISE IS ACHIEVED, I WOULD EXPECT THE WESTERN PREMIERS (WITH THE POSSIBLE EXCEPTION OF MR BLAKENEY) TO CARRY THEIR OPPOSITION TO LONDON AT LEAST BY LOBBYING THROUGH THEIR AGENTS.

10. TO SUM UP, IT THUS LOOKS AS IF IN CANADA MR TRUDEAU WILL SUCCEED BY EARLY JANUARY IN FORCING THROUGH HIS WILL AGAINST WIDESPREAD OPPOSITION. WE MUST ALSO EXPECT THAT THOSE OPPOSING HIM WILL THEN LOOK TO THE MOTHER OF PARLIAMENTS' TO REFUSE TO CONNIVE IN WHAT THEY WILL PERCEIVE AS THE DICTATORIAL ACT OF A GOVERNMENT WITH A MAJORITY OF ONLY 11 (THREE SEATS ARE NOW VACANT) WHICH COULD AS YET UNFORSEEABLY CHANGE THE DEVELOPMENT OF THE CANADAIN CONFEDERATION.

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CONSTITUTION

1. STAGE ONE OF MR TRUDEAU'S PLAN TO CHANGE CANADIAN CONFEDERATION WAS COMPLETED LAST FRIDAY.
2. THE FEDERAL GOVERNMENT HAD LAID ITS PROPOSALS IN THE FORM OF A PROPOSED RESOLUTION ON OCTOBER 2. DEBATE IN THE HOUSE STARTED ON OCTOBER 6 ON A MOTION TO REFER THE DRAFT FOR FORMAL CONSIDERATION BY A JOINT COMMONS/SENATE COMMITTEE. THIS MOTION PRECLUDED ANY CLAUSE BY CLAUSE DISCUSSION OF THE PROPOSED RESOLUTION AND AMENDMENTS TO THE NORTH AMERICA ACT OR THE TABLING OF AMENDMENTS, THOUGH THERE WAS DISCUSSION ON THE SUBSTANCE OF THE PROPOSAL. IN SPITE OF VIGOROUS OBJECTIONS BY BOTH OPPOSITION PARTIES DISCUSSION WAS GUILLOTINED BY THE GOVT AT 1.00 AM ON OCT 24. THE MOTION WAS APPROVED (156 - 83) WITH THE NDP SUPPORTING THE GOVERNMENT AFTER MR TRUDEAU HAD AGREED TO AMEND HIS PROPOSALS TO TAKE SOME ACCOUNT OF THE WEST'S CONCERNS ABOUT RESOURCES AND FEARS ABOUT THE USE OF REFERENDA TO ACHIEVE CONSTITUTIONAL CHANGE. 9 LIBERAL, 21 CONSSRVATIVE AND 9 NDP WERE ABSENT AT THE TIME OF VOTING.
3. THE DRAFT RESOLUTION WILL BE TAKEN BRIEFLY BY THE SENATE THIS WEEK AND DISCUSSIONS IN THE JOINT COMMITTEE SHOULD START ON NOVEMBER 3. ACCORDING TO OUR INFORMATION THE GOVERNMENT WILL RIDE THE COMMITTEE HARD BY HOLDING 14 SESSIONS WEEKLY AND INTENDS TO MEET ITS DEADLINE OF DECEMBER 9 FOR REFERRAL BACK TO THE HOUSE OF COMMONS. THE COMMITTEE WILL SET ITS OWN PROCEEDURES, AND IT IS NOT YET CLEAR WHAT OUTSIDE EVIDENCE IT WILL BE WILLING TO LISTEN TO. IT IS NOT YET KNOWN WHAT FURTHER DEBATE IN THE HOUSE WILL BE PERMITTED. PRESENT INDICATIONS ARE THAT FURTHER AMENDMENTS OF THE RESOLUTION WILL NOT THEN BE PERMITTED AND THAT MR TRUDEAU MAY AGAIN INVOKE THE GUILLOTINE TO CURTAIL DEBATE.
4. IN THE MEANTIME NEW BRUNSWICK HAS WITH OBVIOUS RELUCTANCE JOINED ONTARIO IN GIVING BROAD SUPPORT TO THE FEDERAL PROPOSALS AND NOVA SCOTIA AND SASKATCHEWAN HAVE BACKED OFF FROM ALL-OUT OPPOSITION. THE REMAINING SIX PROVINCES ARE SUPPORTING COURT ACTION AND THEIR ATTORNEYS GENERAL AGREED ON OCT 23 TO LAUNCH ACTIONS IN THE PROVINCIAL COURTS OF MANITOBA, QUEBEC AND NEWFOUNDLAND. (MR TRUDEAU HAS REFUSED TO SEEK QUICK OPINION FROM THE SUPREME COURT AS HE DID OVER BILL C60 IN 1978 AND PROVINCIAL GOVTS ONLY HAVE ACCESS TOT THE SUPREME COURT VIA THEIR OWN COURTS).

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/ IN MANITOBA

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IN MANITOBA THE PRESS HAS REPORTED THAT THE PROVINCIAL CABINET IS HOPING FOR A COURT DATE BEFORE CHRISTMAS AND WILL PUT THE FOLLOWING QUESTIONS FOR DECISION:-

(A) WHETHER, IF AMENDMENTS TO THE CONSTITUTION AS SOUGHT BY THE FEDERAL GOVERNMENT WERE ENACTED, FEDERAL-PROVINCIAL RELATIONSHIPS, RIGHTS, POWERS AND PRIVILEGES AS DESCRIBED IN THE CONSTITUTION WOULD BE CHANGED, AND IF SO, IN WHAT WAY;

(B) WHETHER IT IS A CONSTITUTIONAL PRACTICE THAT THE FEDERAL GOVERNMENT NOT ASK THE QUEEN TO PUT BEFORE THE BRITISH PARLIAMENT A MEASURE TO AMEND CANADA'S CONSTITUTION IN A WAY THAT WOULD ALTER FEDERAL-PROVINCIAL RELATIONSHIPS WITHOUT FIRST OBTAINING AGREEMENT OF THE PROVINCES;

(C) WHETHER THE AGREEMENT OF THE PROVINCES IS REQUIRED FOR AMENDMENT TO THE CONSTITUTION WHERE FEDERAL-PROVINCIAL RELATIONSHIPS WOULD BE AFFECTED.

NO ANNOUNCEMENT HAS YET BEEN MADE ABOUT LITIGATION IN QUEBEC AND NEWFOUNDLAND. THIS LITIGATION COULD LAST FOR MONTHS.

4. SEE MY IMMEDIATELY FOLLOWING TELEGRAM.

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