

April 14, 1981

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MEMORANDUM FOR MIKE KIRBY

The Constitutional Resolution:  
The London Scene

On Tuesday evening, April 7, Hershell Ezrin and I left Ottawa for London with two specific objectives: firstly, to advise officers of the High Commission, officers of the British government and a number of British MPs and Lords of developments in Canada in relation to the Constitutional Debate since Mr. Chrétien's visit in the week of March 23rd and to interpret those developments from the federal government viewpoint, and secondly, to indicate to the same groups our view of the timetable looking forward to May and June and our view that the pace of activity in London is likely to accelerate during those two months to a new high level following the Supreme Court hearing, given the provincial view most clearly expressed by Premier Lougheed that "if the Supreme Court finds the process 'illegal', that is the end of it but if it finds the process 'legal' that is not the end of it because there is still an issue of political morality or 'legitimacy' that, in the provinces' view, should lead Westminster to refuse a request from the Senate and House of Commons that is opposed by a substantial majority of the Premiers" (and, presumably, provincial legislatures as evidenced by resolutions adopted by legislatures that will undoubtedly be presented at Westminster).

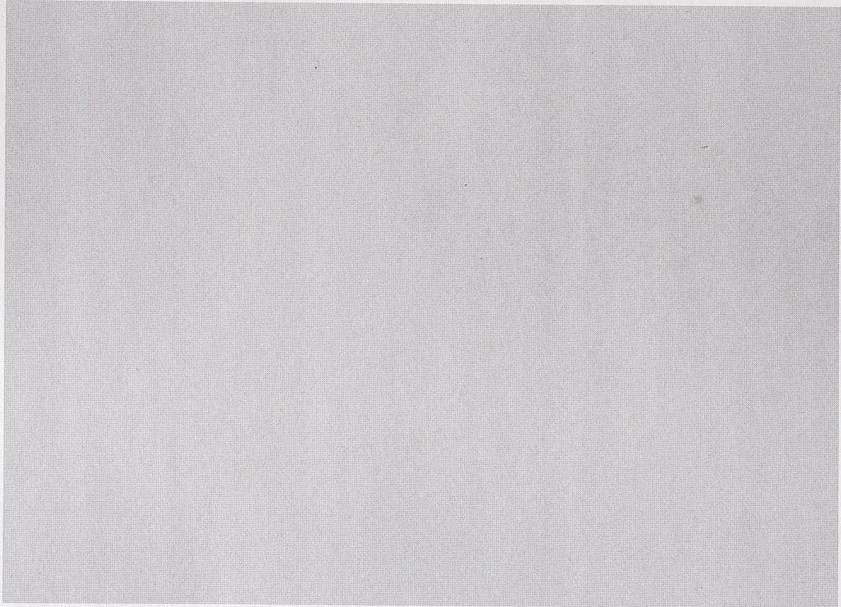
Mr. Ezrin returned to New York on Saturday, April 11. I left London on Monday evening, April 13. The major elements of our program in London were the following: a lunch at the High Commissioner's residence on Wednesday, April 8, attended by 15 MPs and Lords (Annex A is a guest list with brief biographies); meetings throughout the week with "Constitutional Task Force" officials at the High Commission to establish a draft London program for May and to identify any additional resource requirements to carry out the program; these meetings culminated in a meeting with the High Commissioner and Deputy High Commissioner on Monday, April 13, at which the program

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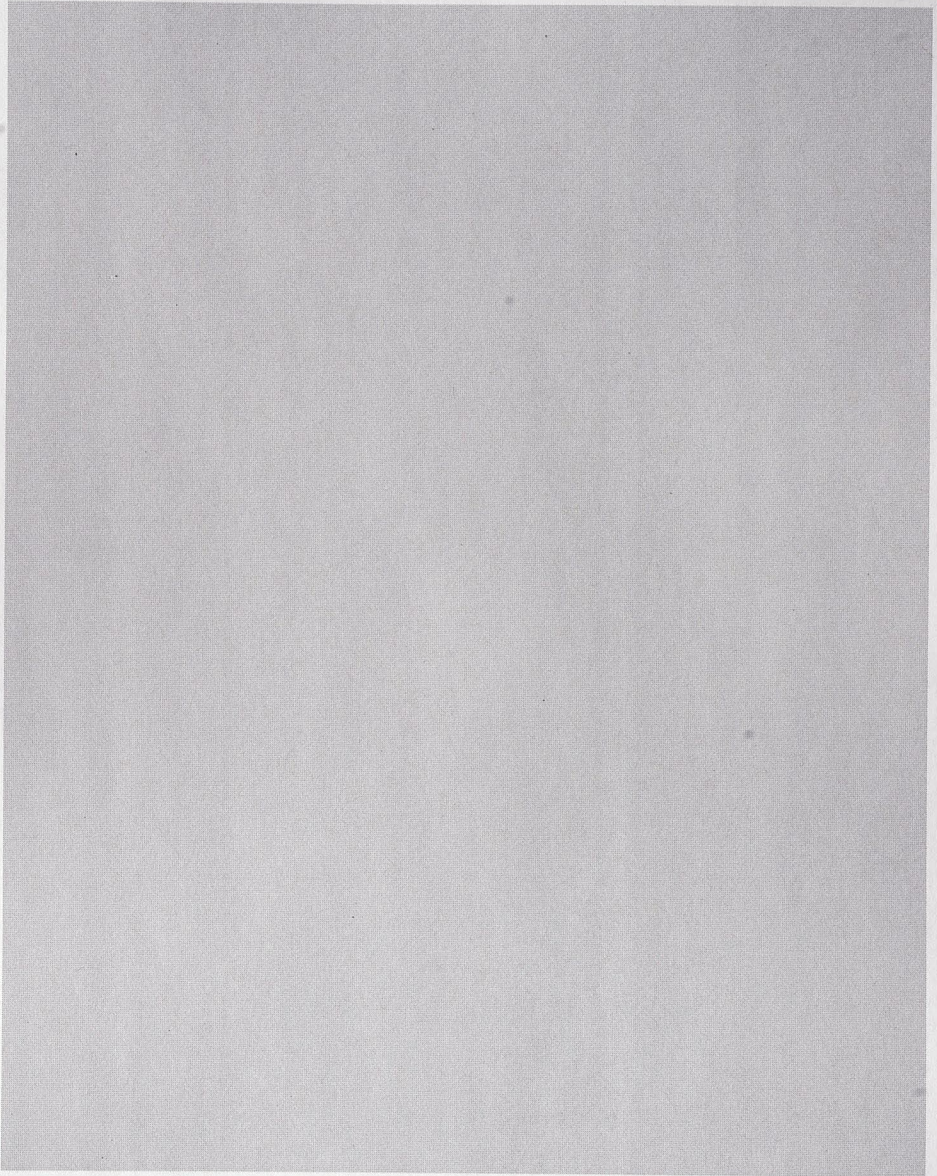
was reviewed and the additional resource requirements were approved in principle; a lunch on Thursday, April 9, attended by Reeves Haggan and myself and two Conservative MPs, Nigel Forman, PPS to Sir Ian Gilmour, Lord Privy Seal and to Honourable Douglas Hurd, a Minister of State at the Foreign and Commonwealth Office, and Jock Bruce-Gardyne; a meeting at the FCO with senior officials of the FCO, the Cabinet Office and the Attorney General's Office followed by lunch with the same officials (Annex B is a list of officials attending); a briefing at the High Commission with the Honourable Tom Wells, Minister of Intergovernmental Affairs for Ontario, Hugh Segal and the Agent General for Ontario in London; and a lunch at the High Commissioner's residence in honour of Tom Wells attended by six British MPs and Lords including the Honourable Nicholas Ridley (Annex C is a list with brief biographies). Mr. Wells was in London to speak to the Royal Commonwealth Society on Tuesday, April 14, on Ontario's view of federal-provincial relations.

The Current Atmosphere in London



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The Reaction of British Officials

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[REDACTED] officials of the Cabinet Office, Foreign and Commonwealth Office and Attorney General's Office were generally guarded but the following general observations can be drawn from our discussions with them:

- consideration is being given now to modification of the FCO response to the Foreign Affairs Committee (Kershaw) Report to acknowledge the decision to await a Supreme Court ruling.
- there is some pressure from the House of Commons, notably members of the Committee, to release the response, particularly since rumours of the general outline of the response are being reported in the press.
- there was discussion of a release date in the third week of May. British officials acknowledged that it would be useful to "clear the decks" in advance of arrival of the measure. We advised that release in London by the FCO while the Supreme Court is deliberating would not be misinterpreted in Canada.
- there was guarded agreement that an adjournment debate on the Kershaw report and the FCO response while the Supreme Court was deliberating would not be very useful and that there would be little object to such a debate following the Supreme Court judgment, given the quick delivery of the measure from Ottawa that can then be expected. But, as a matter of principle, there is pressure at Westminster for reports such as the Kershaw report to be debated.

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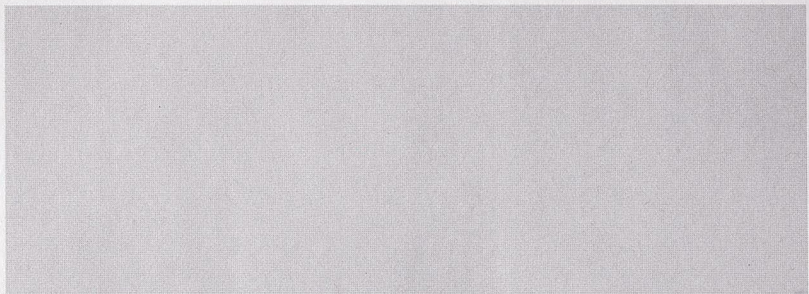
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- the "window" between adoption of the measure in Ottawa and its transmission that was urged on Mr. Chrétien by Mr. Pym was not pressed for. The longer timeframe now available for publication of the FCO response would appear to have overcome the need for such a "window".
- the prospect of heavy lobbying by the provinces during the month of May is acknowledged with regret.
- the likelihood of a high-profile send-off of the measure from Ottawa is not a matter of concern. On the other hand, there was an assumption following the Chrétien/Pym discussions of a low-key transmission - specific mention was made of a delivery by Esmond Butler.
- there was some discussion regarding the process in London after adoption of the measure in Canada. There was an indication of a willingness to take "administrative steps" to prepare for introduction in advance of formal receipt of the measure. Such steps could be taken on the basis of an informal copy of the measure and could commence immediately on completion of debate in our Parliament. Such steps include printing and consideration of the measure by the Legislation Committee of the British Cabinet. It was indicated that such steps will take one week at a maximum.

Conclusions

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2. To enable British Parliamentarians to exercise their legal and political authority with minimal elapsed time and minimal debate, but still with dignity, it is essential that:
  - a) we provide the final text of the resolution to all active British Parliamentarians as soon as it is available;
  - b) we provide the same Parliamentarians with a factual, non-interpretive summary of the Supreme Court judgment as soon as it is available;
  - c) we follow-up quickly and effectively on all expressions of interests or requests for information from British Parliamentarians;
  - d) in addition to the reactive initiatives under c), we follow-up with as many as possible of the British Parliamentarians to determine what if any further information or explanations would be useful to them.

The initiatives described in paragraphs b) and c) above will involve supplementing the High Commission staff with officials from Ottawa as well as with Canadian Parliamentarians and businessmen, academics and provincial politicians of standing.

3. Social functions hosted by the High Commissioner provide an excellent forum for interaction between:
  - a) well informed Canadian guests; and
  - b) Parliamentarians.

The schedule of lunches and dinners at the residence should be intensified during May.

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4. Contacts with the British government should be regular and low-key but insistent. These can effectively be carried out at senior officials level. Such contacts should preferably involve joint meetings with officials of the FCO, the Cabinet office and the Attorney General's office to avoid the possibility of self-contradiction inherent in separate meetings with officials from the three offices.

Fred E. Gibson