

CONFIDENTIAL

CONFIDENTIAL

FM OTTAWA 292005Z OCT 81

TO PRIORITY FCO

TELEGRAM NUMBER 599 OF 29 OCTOBER

CONSTITUTION

1. IT IS AS YET IMPOSSIBLE TO TELL WHEN THE PACKAGE MAY REACH US OR WHETHER BY THEN IT WILL HAVE OBTAINED A GREATER DEGREE OF PROVINCIAL SUPPORT. BUT I AM SURE THE DEPARTMENT IS RIGHT TO WORK ON THE BASIS THAT IT MAY BE WITH US SOON AND MAY STILL BE OPPOSED BY EIGHT PROVINCES. I NOTE WHAT YOU SAID TO MR MACGUIGAN IN CANCUN (UKDEL CANCUN TELNO 29) ABOUT THE DOUBTFUL PROSPECTS FOR PASSAGE OF THE BILL.

2. IN THESE CIRCUMSTANCES THE DEPARTMENT ARE NO DOUBT CONSIDERING WHAT WE SHOULD DO IF THE BILL IS REJECTED BY PARLIAMENT. IN THIS CONTEXT MAY I MAKE THE FOLLOWING SUGGESTIONS?

3. I THINK IT WOULD BE DAMAGING FOR US SIMPLY TO DO NOTHING, IMPLYING OR SAYING THAT THE CANADIANS MUST COME UP WITH A REVISED PACKAGE MORE ACCEPTABLE TO US. THIS WOULD BE REGARDED BY VERY MANY CANADIANS AS UNREASONABLE. MR DON JAMIESON, FORMER MINISTER OF EXTERNAL AFFAIRS AND LIKELY NEXT HIGH COMMISSIONER IN LONDON, TOLD ME LAST WEEK IN NEWFOUNDLAND THAT IF PARLIAMENT DID NOT LIKE THE PACKAGE IT OUGHT TO SAY WHAT IT COULD ACCEPT. THIS SEEMS A FAIR POINT. EQUALLY I IMAGINE THAT MINISTERS WOULD NOT WISH SIMPLY TO TRY AGAIN WITH THE SAME PACKAGE AND RISK A SECOND FAILURE.

4. I THINK THAT IF THE BILL IS REJECTED THE BEST COURSE WOULD BE TO INTRODUCE AT ONCE, SIMPLY TELLING THE CANADIANS BUT NOT ASKING FOR THEIR AGREEMENT, A MEASURE PROVIDING FOR SIMPLE PATRIATION WITHOUT AN AMENDING FORMULA. FROM THE POLITICAL POINT OF VIEW THIS WOULD GREATLY MITIGATE THE DAMAGE HERE BY REMOVING GROUNDS FOR THE ACCUSATION WHICH WOULD NO DOUBT BE MADE BY THE FEDERAL GOVERNMENT, THAT WE WERE REFUSING CANADA A CONSTITUTION AND ACTING IN A "COLONIAL" WAY.

5. ALTHOUGH I REALISE THE LEGAL OBJECTIONS TO PATRIATION WITHOUT ANY AMENDING FORMULA I AM INCLINED TO THINK THAT FROM THE POLITICAL POINT OF VIEW IT WOULD BE PREFERABLE NOT TO REPEAT NOT TO INCLUDE ANY SUCH FORMULA. ANY FORMULA WE SELECT IS OPEN TO OBJECTION. THE PRESENT ONE IS STRENUOUSLY OPPOSED BY THE WESTERN PROVINCES. TO SELECT ANY OTHER WOULD BE A GROSS INTERFERENCE IN CANADIAN AFFAIRS. IF PARLIAMENT REJECTS THE FEDERAL GOVERNMENT'S PACKAGE IT WOULD IN MY JUDGEMENT BE MUCH BETTER TO SIMPLY DIVEST

*ourselves*

CONFIDENTIAL

CONFIDENTIAL

OURSELVES OF LEGAL RESPONSIBILITY AND TO LEAVE BOTH THE QUESTION OF FUTURE AMENDMENT AND ANY CHARTER OF RIGHTS TO BE SETTLED BY CANADIANS IN CANADA. THIS WOULD IN THE CIRCUMSTANCES BE WIDELY UNDERSTOOD HERE AND WOULD GIVE US A NEUTRAL POSITION IN THE INTERNAL POLITICAL ARGUMENT.

MORAN

THIS TELEGRAM  
WAS NOT  
ADVANCED

CANADIAN CONSTITUTION LIMITED

NAD

CCD

P & CD

PCCU

PARLIAMENTARY UNIT

NEWS D

INFORMATION D

PS

PS/LPS

PS/MR LUCE

PS/MR HURD

PS/LORD TREFARNE

PS/PUS

SIR E YOUDE

MR DAY

MR URE

LORD N G LENNOX

CABINET OFFICE

COPIES TO:

SIR I SINCLAIR

MR FREELAND

DR PARRY

} LEGAL ADVS.

PS/CHANCELLOR OF THE DUCHY OF  
LANCASTER

PS/LORD CHANCELLOR HOUSE OF LORDS

PS/LORD PRESIDENT

MR H STEEL, LAW OFFICERS' DEPT

PS/HOME SECRETARY

[COPIES SENT TO NO 10 DOWNING ST]

CONFIDENTIAL