

Prime Minister to see
 M.P.C. Mitchell Canada
 Deputy Clerk
 5/11/81

Ref. A05903

PRIME MINISTER

Canadian Constitution

I have just heard from Mr Michael Pitfield, my Canadian counterpart, that the Federal Government has reached agreement with nine of the provincial premiers on a draft measure for patriation of the constitution, an amending formula, and a Bill of Rights.

2. The amending formula provides for the agreement of seven of the ten provinces, save in two or three areas where there will be a unanimity requirement. I do not have the details of the Bill of Rights but I understand that it will now include provision enabling a provincial Government to derogate from particular provinces for a limited time, with a right to come back for a renewal at the end of that time.

3. The Federal Cabinet will meet tomorrow. The proposal is to proceed in the Canadian Parliament forthwith, probably on Monday or Tuesday of next week, with a view to sending the measure to Westminster in a week or ten days' time.

4. The dissenting province is, of course, Quebec. Mr Pitfield expressed the hope that British Members of Parliament who had hitherto been standing out against the constitutional proposals would not enter the lists in support of Quebec.

5. I said that I could not predict how that would be, but I thought that the fact that agreement had been reached with all the other nine provinces would improve the chances of the measure succeeding at Westminster.

6. I am sending copies of this minute to the Foreign and Commonwealth Secretary and to the Lord President.


 ROBERT ARMSTRONG

(drafted by Sir R Armstrong and
 signed on his behalf)

5 November 1981



(2)

✓ PS
 PS/LPS
 PS/Mr Hurd
 PS/Mr Luce
 PS/Lord Trefgarne
 PS/PUS
 Mr Day
 Mr Ure
 Lord N Gordon Lennox
 Sir Ian Sinclair
 Mr Freeland
 Dr Parry
 Parliamentary Unit
 PCCU
 News Department
 Lord Moran, c/o Heads of Mission

This looks like good news.

Print 5/11

CANADIAN CONSTITUTION

1. The Canadian High Commissioner telephoned Mr Luce's Private Secretary (in Mr Luce's absence) this evening to let him know that 9 of the 10 provinces had reached agreement with Mr Trudeau on a slightly modified package of constitutional proposals. Quebec alone had not signed. The statements are at this moment (6pm) being typed for the announcement to be made in Ottawa.

2. The revised package includes:

- (1) The amending formula will be as in the April 1981 accord (basically the Vancouver consensus) instead of the Victoria formula in the original resolution, but there will be no obligation for fiscal compensation if a province opts out of any part of the package.
- (2) There will be no delegation of legislative powers.
- (3) There will be no referendum.
- (4) There will be a fully entrenched Charter of Rights including Federal language rights.
- (5) The provinces will be able to pass legislation enabling them to opt out.
- (6) Mobility of travel and employment will be entrenched in the Charter except in the Provinces where there is over average unemployment.

2. The Premiers and the Federal Government have initialled this agreement. The inter-Governmental Ministers will remain in Ottawa to finalise the drafting. It is still possible that one or more Provinces may renege on the agreement as they did in 1971, but this is thought unlikely.



3. The new agreement means that the All-party agreement on Parliamentary handling will have to be renegotiated but Mrs Wadds thought in view of the number of Provinces supporting the revised package that the opposition parties would not cause any difficulty and that it is likely that the Parliamentary process will be completed quickly. It is not yet possible to predict precisely when the Canadian Parliament will debate and vote on the measure, but this could be sometime next week, which means that the Resolution might be with us during the week beginning 16 November.

4. These are only the barest details. We expect to have a full statement and agreement tomorrow morning.

5. The High Commission in Ottawa have telephoned and their initial reaction is that it looks as if this is going to get us off the hook.

B R Berry
North America Department

5 November 1981

