

(2)



Canada

10 DOWNING STREET

Prime Minister

Canada bill

You will wish to be aware of  
Trudeau's latest letter.

A.F.C.  $\frac{18.}{1}$

K.A.

$\frac{18.}{1}$



B/F

5

10 DOWNING STREET

*From the Private Secretary*

15 January 1982

Canada

B/F | I enclose a copy of a letter of 13 January from the Prime Minister of Canada expressing concern about the Government's decision to postpone the second reading of the Canada Bill until the Court of Appeal has given its judgment on the Alberta Indian case. I should be grateful for advice and a draft reply for the Prime Minister's signature.

I am copying this letter and enclosure to David Heyhoe (Lord President's Office), Michael Collon (Lord Chancellor's Office), Henry Steel (Law Officers' Department) and David Wright (Cabinet Office).

8.1.1982

R.M.J. Lyne Esq  
Foreign and Commonwealth Office.

A

Subject

✓ Master  
ops

T. 6/82

PRIME MINISTER'S

PERSONAL MESSAGE

SERIAL No. T 6/82



PRIME MINISTER · PREMIER MINISTRE

Ottawa, January 13, 1982

My dear Margaret:

As you know, I have greatly appreciated your consistent support on the Constitution, and I have full confidence in your resolve to deal with the Canada Bill expeditiously. Naturally, I also recognize that you alone must decide how this commitment is to be met. However, given the importance of the Canada Bill to the people of Canada, I believe it is important that we keep one another fully informed of our thinking on all matters that might bear on its timely passage by Westminster. It is against this background that I feel compelled to express to you my concern with your Government's decision to postpone the scheduling of second reading of the Canada Bill until the Court of Appeal has given its judgement on the Alberta Indian case.

I understand that this decision was made to ensure the eventual easy passage of the Canada Bill. If the Court renders a favourable decision on January 18th or thereabouts, then little damage may have been done and it should be possible to give notice of second reading that week. (You will recall that Mr. Pym had earlier said that second reading would start in that week.)

.../2

The Right Honourable Margaret Thatcher,  
Prime Minister of Great Britain,  
10 Downing Street,  
London, England.

My concern is that the decision to delay the start of second reading until after the Court of Appeal rules on the Alberta Indian case provides a basis for demands for further delays in second reading. Opportunities before the courts abound: the Alberta case may be appealed to the Lords; as you know, British Columbia Indians have started proceedings in the Chancery Division; we anticipate that action of some kind will be initiated by Saskatchewan Indians; other Indian groups, including the Cree in Northern Quebec, may also institute proceedings. Indeed, there is no technical limit to the number of cases that could be brought in both Canada and the United Kingdom.

All this suggests that the decision to delay second reading until after the ruling on the Alberta Indian case is handed down is certain to lead to pressure at Westminster for repeated delays to await a series of judgements in a series of cases which will be carefully scheduled to maximize the delay in passage of the Canada Bill.

In Canada, the Government of Quebec will bring a reference to the Quebec Appeal Court on March 15th seeking a ruling on Quebec's claim to have a constitutional veto, a subject on which I understand Mr. Lévesque has written to you. This case will surely be appealed to the Supreme Court of Canada with proceedings likely to drag on into the fall of this year.

These proceedings, regardless of their outcome, will, unless the issue is settled expeditiously at Westminster, prolong and intensify the political problems in Quebec and throughout Canada. On the other hand, if royal assent could be given to the Canada Bill before the Quebec Court proceedings commence on March 15th, it is virtually certain that the Quebec Court would find the issue hypothetical and therefore not one requiring a ruling on their part.

If, in the Alberta Indian case, the Court of Appeal rules, as your officials expect, in favour of the Foreign and Commonwealth Office, I hope that your Government would take the position that since the Canadian Courts have dealt with the question of provincial consent and since no Canadian or British Court has recognized the validity of Indian claims to a special relationship with the British Crown, there is no argument for any further delay. You could then proceed very quickly to second reading.

If the Court of Appeal rules against the FCO position, the situation would raise profound questions about the British Government's obligations under the Indian treaties, about the manner of their discharge, and about the meaning of the Statute of Westminster, not just for Canada's sovereignty but for the sovereignty of Commonwealth countries more generally.

You will recall that the vast majority of Canadians now regard the constitutional issue as settled and they look to Britain for early, formal assent. There is a risk that further delay could give rise to controversy and misunderstanding in Canada over the British role in this process. Beyond that, there are the unthinkable consequences of the package coming unstuck in the United Kingdom, after its approval in Canada.

I hope that this letter has helped you to more fully understand my concern about the need to dispense with the Canada Bill expeditiously. In this regard, I particularly appreciate Mr. Pym's undertaking to High Commissioner Wadds on Monday that your Government will consult us after the decision of the Court of Appeal before making any further decision on the timing of second reading.

Yours sincerely, and

*with personal regards.*

*Pearce*

*I Note here.  
He promised  
to "inform".*

*25.  
A.S.C.T*

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Foreign and Commonwealth Office

London SW1A 2AH

20 January 1982

*Dear John,*

Canada

Thank you for your letter of 12 January enclosing one from the Canadian High Commissioner, which in turn forwarded a letter dated 18 December 1981 from Mr Trudeau inviting the Prime Minister to visit Canada. You suggested that the Prime Minister would not wish to make a firm commitment at this stage.

There has been a virtual moratorium on ministerial visits to Canada since mid-1980 in order to avoid possible embarrassing involvement with the Constitution. The last British Prime Minister to make a bilateral visit to Canada was Mr Callaghan in 1976. After the strains of the last eighteen months, once patriation is achieved we shall want to take all opportunities to develop the positive potential of relations between Britain and Canada. Lord Moran has already expressed his support for more ministerial visits to this end and acceptance by the Prime Minister of Mr Trudeau's invitation would be the most impressive demonstration of our intentions.

We understand that there is little or no scope for the Prime Minister to accept further invitations for overseas visits in 1982 beyond those already planned. However, in view of the Prime Minister's sympathetic reaction to the idea of a visit in her telephone conversation with Mr Trudeau on 5 December, and given the other considerations outlined above, we hope that the Prime Minister would see her way to accepting the invitation in principle. We therefore recommend that she should reply to Mr Trudeau's invitation that she would welcome a visit to Canada in 1983. I attach a draft reply to Mr Trudeau in this sense.

In considering this invitation you may like to bear in mind that Lord Carrington has agreed in principle to visit Canada at the invitation of the Canadian Secretary for External Affairs, Mr MacGuigan. Assuming settlement of the constitutional question by then, we intend to propose that Lord Carrington should go to Canada for a few days in September en route to the UN General Assembly. We also intend to pursue the idea of a visit by Mr Luce earlier in the summer, again depending on the progress of patriation.

We shall be letting you have a separate draft reply as soon as possible to Mr Trudeau's latest letter to the Prime Minister dated 13 January, (on the assumption that you will wish to keep the questions of a visit and of the Constitution separate). But the present reply has been drafted with the second letter in mind.

*Yours ever*  
*Roderic Lyne*  
(R M J Lyne)  
Private Secretary

A J Coles Esq  
10 Downing St

DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM:

Reference

Prime Minister

DEPARTMENT:

TEL. NO:

SECURITY CLASSIFICATION

TO:

Your Reference

Top Secret

Secret

Confidential

Restricted

Unclassified

The Rt Hon Pierre Elliott Trudeau PC MP  
Prime Minister of Canada

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

CAVEAT.....

Thank you for your letter of 18 December and for your <sup>personal remarks</sup> kind words about my part in the process of patriating the Canadian Constitution. As you know, we are not yet over the final hurdles here (and I shall be replying shortly to your further letter on this), but I do assure you that we are determined to press ahead as speedily as possible. <sup>We shall all be very pleased</sup> ~~It will be an occasion of great pleasure to all of us here~~ when Canada's Constitution is finally home. As you say ~~in your letter~~, we shall then be able to <sup>pay</sup> ~~devote~~ more attention to the many other <sup>relations</sup> ~~aspects of the relationship~~ between Canada and Britain.

<sup>It is kind of you to invite me</sup> ~~Your letter renews your invitation for me to visit Canada.~~ <sup>in principle</sup> I should be delighted to <sup>do so.</sup> ~~accept.~~ I fear that because of the extent of my existing commitments for overseas travel in 1982, I have already had to draw a line as far as undertaking any new visits is concerned. May I suggest therefore that we think in terms of a visit in 1983? I hope this will be acceptable to you.

I am afraid that there is very little space in my diary for 1982 and I have already had to had to decide some time ago that it was unlikely that I should be able to accept <sup>add</sup> to existing <sup>work</sup> ~~plans~~ for the year.

Enclosures—flag(s).....

Can I suggest that <sup>in due course</sup> ~~rather later~~ <sup>later</sup> ~~the~~ year I get in touch with you <sup>to</sup> discuss the possibility of a visit either at the turn of the year or <sup>later</sup> ~~later~~ in 1983. I very much want to take up your kind invitation but cannot yet see my way clear in dates.



PRIME MINISTER

VISIT TO CANADA?

Please see the attached FCO advice on your response to Mr. Trudeau's recent letter inviting you to visit Canada.

The FCO are keen that you should make a fairly firm commitment to visit Canada some time in 1983. I think there are good reasons for a visit some time. During the discussion of the Constitutional issue, other aspects of our relations with Canada have had to take second place. But I doubt whether you will wish to make any firm commitment about 1983 now. It may be that an opportunity will arise for a visit to Washington, which could be combined with a short visit to Canada. But it will be easier to consider this later this year.

If you agree you may care to sign the attached reply to Mr. Trudeau which welcomes the idea of a visit either at the turn of the year or rather later in 1983 but avoids any firm commitment.

A.J.C.

22 January 1982



Foreign and Commonwealth Office

London SW1A 2AH

22 January 1982

*Dear John,*

Letter from Mr Trudeau

With your letter of 15 January you enclosed a letter to the Prime Minister from Mr Trudeau.

We were initially inclined to recommend that a reply to Mr Trudeau should be delayed until after the delivery of the judgement of the Court of Appeal in the Alberta Indians case. However the judgement is not now expected until next week and it will not be possible for Ministers then to make an instant decision on the handling of the Second Reading of the Canada Bill. In any case we cannot anticipate the Ministerial decision. If Second Reading goes ahead immediately Mr Trudeau's present concerns will largely disappear. If, however, Ministers decide to delay Second Reading a more elaborate explanation will have to be given to the Canadians.

On reflection therefore it seems better to send a holding reply in advance of the Court's judgement. Mr Trudeau's concern about Quebec is a real one but we think it best to do no more at this stage than indicate that we have taken the point on board. I attach a draft which incorporates suggestions made by the Lord President.

At the end of his letter Mr Trudeau refers to an undertaking allegedly given by Mr Pym to Mrs Wadds that we would consult with the Canadians about how to proceed following the court of Appeal's ruling. Mr Pym did not in fact make such a commitment although he did undertake (in their conversation on 12 January) to keep the Canadians informed of our thinking. We have made this clear to the High Commission here and do not recommend raising the point in the Prime Minister's reply. We should in any case need to inform the Canadian High Commission in advance of any public announcement, if it were decided not to proceed promptly with Second Reading in the light of the Court of Appeal's ruling.

The draft reply has the approval of the Lord Privy Seal, but has not yet been seen by Lord Carrington. If the Foreign and Commonwealth Secretary has any additional comments I shall let you know on Monday morning.

I am copying this letter and enclosure to David Heyhoe (Lord President's Office), Michael Collon (Lord Chancellor's Office), Henry Steel (Law Officers' Department) and David Wright (Cabinet Office).

*Yours ever*  
*Roderic Lyne*  
(R M J Lyne)

Private Secretary

A J Coles Esq  
10 Downing St

*Lord Carrington  
has now  
confirmed that  
he does not wish  
to comment.  
A.J.C. 25.*



10 DOWNING STREET

Prime Minister

Canada Bill

I thought I  
had already  
signed a letter,  
not

Mr. Trudeau wrote on 13 February.

2. The judgment in the Alberta  
Indian case is likely to be  
delivered tomorrow (Tuesday) or  
Wednesday.

3. I am inclined to think it would  
be better to get a reply off  
before we know the terms of the  
judgment. Otherwise, the issue  
may have to be considerably more  
complicated. If you agree you may  
wish to sign the attached.

A.S.C.  $\frac{25}{1}$

25 January 1982


Canada

Thank you for your letter of 20 January suggesting a draft reply from the Prime Minister to Mr. Trudeau's letter of 18 December inviting her to visit Canada.

The Prime Minister decided to reply in slightly more non-committal terms than was suggested in your letter. I enclose a copy of her reply and should be grateful if you would arrange for its onward delivery. In that connection, may I point out that the Canadian High Commissioner, in forwarding Mr. Trudeau's letter of 11 January, stated that she looked forward to receipt of the Prime Minister's reply. You may therefore care to inform her of its contents.

AJC

R.M.J. Lyne, Esq.,  
Foreign and Commonwealth Office.



SUBJECT

cc Master  
Ops



Canada VB

cc: FLO

10 DOWNING STREET

THE PRIME MINISTER

**PRIME MINISTER'S  
PERSONAL MESSAGE  
SERIAL No. T15/82**

25 January 1982

*Mr. Pierre*

Thank you for your letter of 13 January in which you expressed concern at the possibility of further delays in the passage of the Canada Bill through the United Kingdom Parliament.

I fully appreciate the difficulties which you describe. As you know, I am equally anxious for a speedy passage of the Bill. However, the Indian cause has attracted some support at Westminster and I have no doubt that, had we proceeded with Second Reading before the courts had considered the Alberta case, we would have aroused substantial opposition to the Bill. We expect to know the decision of the Court of Appeal in the very near future and in the light of that we shall be considering urgently how best to proceed in Parliament. We certainly have no wish to delay matters and I assure you that we shall have very much in mind the points made in your letter and in other recent exchanges between our Governments.

As regards Quebec you will have seen my reply to the letter from Mr. Levesque to which you refer.

I agree that we must continue to keep closely in touch about all this.

*Y  
L  
Ray*

The Rt. Hon. Pierre E. Trudeau, P.C., M.P.

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DB