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Ref. A05171

MR. ~~ALEXANDER~~

*See records of discussion
with Mr. Trudeau.*

H. H. Smith

Canadian Constitution

I know that the Prime Minister and Mr. Trudeau discussed this issue before lunch, and that the Chief Whip and Mr. Pitfield discussed it over lunch; but I should nonetheless record the discussion which Mr. Pitfield and I had on the matter after lunch.

2. Mr. Pitfield said that he had had a call from the Chief Justice of the Supreme Court to say that he was cutting short his holiday in this country and returning to Canada at the beginning of July to meet with his colleagues on the Supreme Court for two or three days. The Chief Justice had said to Mr. Pitfield: "You know what that means", and had then rung off. Mr. Pitfield took it to mean that the Supreme Court could be expected to hand down its judgment on the Canadian Constitutional question about 7th July.

3. Mr. Pitfield then represented to me the disadvantages which would accrue, to us as well as to the Canadian Government, if the matter hung around until the autumn without a decision at Westminster. The Provincial Governments would use the interval for intense lobbying; referenda would be conducted in the Provinces; and the whole issue would become thoroughly muddled. There would be great advantage in completing the process as quickly as possible, before the summer holiday.

4. Mr. Pitfield said that the Canadian Parliament had had to extend its Session in order to deal with the estimates, which had been set back in some way. Assuming - as he still did - that the Supreme Court's judgment was by a majority in favour of the Federal Government, the matter would come back to the Canadian Parliament as soon as the judgment was handed down, and could be taken through by, say, 10th or 11th July. He thought that it would still be in the interests of us as well as of them that it should be taken through Parliament at Westminster before the Summer Recess. He said that the Chief Whip had indicated to him at lunch that that could be very difficult indeed.

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5. I said that I thought that that was indeed the case. He could be assured that we were not less alive than they were to the advantages of dealing with the issue quickly, once the judgment was received. Until today, however, we had been assuming that, since the Supreme Court had risen for its vacation without having handed down a judgment, we should not now see it until the autumn. It was hoped that the House of Commons would rise for the Summer Recess before the Royal Wedding. The programme had in any case been made more congested by the need to deal with the Representation of the People Bill which had just completed its progress through the House of Commons. While it might in theory be possible for the House of Commons to sit again after the Royal Wedding, there would be great reluctance to do that; and, if the Canadian Bill was thought to be the reason for it, that would not provide a good climate in which to try to get the Bill through. If the Canadian Bill was to be taken before 29th July, some other business would now have to be postponed until the "spillover" session in October. The alternative would be to take the Canadian Bill in the spillover; the House of Commons would not resume before 19th October, because of the Party Conferences in the earlier part of the month. In these circumstances I did not know what the Parliamentary managers would think was the best thing to do, if the Supreme Court judgment was handed down early in July, and the Bill became available to Westminster about the middle of July.

6. Mr. Pitfield and I agreed to keep in close touch. I shall in fact be in Canada from 6th to 8th July for a meeting of Personal Representatives, and shall see Mr. Pitfield then. He will let me know by telephone early, if there is anything new to report.

7. I am sending copies of this minute to Mr. Fall, Mr. Heyhoe and Mr. MacLean.

REA

ROBERT ARMSTRONG

26th June, 1981

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