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apud, as indicated by number

S E C R E T

May 29, 1981

MEMORANDUM FOR THE PRIME MINISTER

The Constitution

This memorandum is designed to keep you informed on issues relating to the period following the Supreme Court decision on which officials are currently working and to seek your guidance on some of them.

1. Informational Issues relating to the Supreme Court Decision

Whatever the decision of the Court may be, we anticipate that it will be complex. The Court has before it nine questions on appeal from three courts and, although there are only three basic issues involved, there are shades of difference among the questions on each of the basic issues. Assuming a positive decision, it is nonetheless prudent to assume that the decision will contain some solace for the dissident provinces and that they will seize on what they regard as positive and exploit it both here and in London. For this reasons, we regard it as critical that:

- (1) Mr. Chrétien be briefed for a press conference to be scheduled as soon as possible, hopefully within an hour or two, after release of the decision;
- (2) an accurate, non-technical summary of the judgement be prepared as quickly as possible on the day of release of the judgement for release to the media in Canada and in London and as the basis of a press line for use by all Ministers;

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- (3) the summary and press line be coordinated with those of New Brunswick and Ontario. It is important that their public statements not differ from ours in the interpretation of the fundamental aspects of the judgement;
- (4) an official from Ottawa be available in London on the day of release of the judgement for immediate contact with the media;
- (5) Roger Tassé and at least one other Justice official fly to London on the night of the release of the judgement to deal with the media, government officials and law Lords on an in-depth basis.

If necessary, depending on the "complexity" of the judgement

-- The program which we intend to follow after the Supreme Court judgement is attached as Annex A. This Annex highlights the following three issues:

- (i) A telephone call by you to Mrs. Thatcher following the final vote in the House of Commons or in the Senate or following the Government House Ceremony

JK
Officials believe that there could be considerable advantage in your communicating directly with Mrs. Thatcher after the measure has been passed by Parliament to ensure that the measure will be handled expeditiously in London and to seek her advice on whether it would be appropriate for a Canadian Minister to arrive in London at the same time as the resolution arrives, or shortly thereafter, to brief some or all of the groups identified on page 4 of Annex A. A briefing note for such a telephone conversation is being prepared at External Affairs. Do you agree with the desirability of your telephoning Mrs. Thatcher?

- (ii) Whether a Canadian Minister should go to London at the time the Resolution is transmitted or shortly thereafter

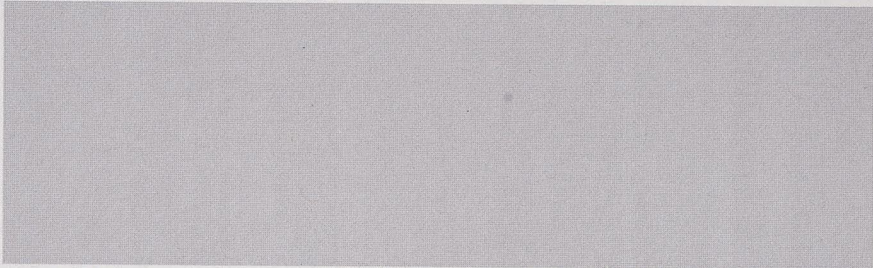


s.13(1)
s.15(1)

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yes

(iii) Interviews of you by British TV and Radio
on the date of the Government House Ceremony

yes

The possibility of such interviews was raised with you earlier and it was agreed that they should not be held. However, depending on the nature and timing of the Supreme Court decision, such interviews could be very useful if their tone and message was supportive of the British Government's efforts and emphasized the importance to Canada of this final act of sovereignty, as well as its legitimacy, both politically and legally. We therefore recommend that this issue be reconsidered after the Court decision. If a decision were taken that you should do interviews on the day of the ceremony, they could be set up on short notice.

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It can be taken for granted that there will be British media coverage of the final stages of the debate here in Canada and that this coverage will include ministerial interviews. In the light of this, we are preparing a line on the tone and substance of ministerial interviews for use by all Ministers. The line on tone and substance will be cleared with you.

2. Use of Backbench MPs and Lords in London
after the Government House Ceremony

At present no expenses are being incurred by PCO/FPRO for travel to London, or living expenses in London, for MPs and Senators. Thus, those who can take part in our activities in London are strictly limited. They must get to London at their own expense or at the expense of some other organization that can justify the expenditure on some other account.

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s.13(1)

s.15(1)

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To move beyond this limited group of participants, and beyond Ministers and Parliamentary Secretaries, we would have to seek order-in-council authority for payment of expenses in each case. Although this could perhaps be justified after the measure has cleared Parliament, and although this would substantially broaden the range of politicians that could be used to help us in London, the inclination of most officials close to the London situation is against resorting to order-in-council authority for direct payment of expenses of MPs and Senators. Do you agree?

*We will see whether
is needed at
the time*

3. A Mailing Campaign

British MPs have been subjected to a concerted letter writing campaign directed to influencing them to vote against the measure. The letters, generally speaking, are handwritten, are personally addressed to British MPs who have no connection with the writers, are vehemently against the federal initiative and in some cases are racist in their tone. Though most MPs we have spoken to profess not to be influenced by the letters, they are nonetheless impressed both by their quantity and their intensity.

We are satisfied that a broadly based counter-campaign would be ineffective. However, we have received strong representations that letters from Canadian MPs and Senators directed to British Parliamentarians whom they know could be very effective as a counter-measure. On the basis of this advice, we are proposing to make arrangements through the Liberal Caucus and the NDP Caucus for such letters to be written following the close of the debate here in Canada. We will provide to any MPs or Senators who are prepared to help us material setting out, in point form, the issues that should be addressed in such letters. We will also undertake to review draft letters but we do not propose to provide form letters.

essential

4. The closing debate in Parliament and the Government House Ceremony

We are still endeavouring to obtain reaction from the Speakers of the House and Senate on the issue of whether ancillary motions are necessary following the adoption of the resolution in each House. You will recall that when we last spoke to you on this subject, the advice

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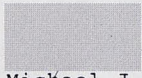

of Senate officials was to the effect that ancillary motions were necessary, at least in the Senate. We now have obtained the contrary advice on that from the Law Clerk of the Senate. These two conflicting views are now being considered by the Speaker in the Senate. We will have his decision on the issue by early next week, at which time Mr. Pinard will be in a position to speak to the Speaker in the House of Commons. Assuming a favourable reaction from Mr. Marchand, we should be in a position to proceed without ancillary motions in both Houses.

Preliminary arrangements for a Government House ceremony, such as preparation of guest lists and the like, are proceeding. No contacts will be made with the media, opposition parties, or anyone outside a small group of officials until after the Supreme Court decision.

5. Program pending the Supreme Court decision

Finally, pending the Supreme Court decision, the program in London is proceeding at relatively the same level of activity as has prevailed throughout the month of May. John Evans, the Parliamentary Secretary to the Minister of Finance, will be in London the week of June 1st. Doug Frith, the Parliamentary Secretary to the Minister of National Health and Welfare, will be in London the week of June 8th. Programs have been prepared on the assumption that no Supreme Court decision will be received during the first two weeks of June. In the event that a decision is received during those two weeks, the programs will of course be modified and stepped up and whoever is in London will come home for the vote.

We would appreciate your advice on any of the foregoing issues or on any issues that you feel we should be pursuing that are not referred to in this memorandum.


Michael J.L. Kirby


SECRET

DAY OF
DECISION

PROGRAM OUTLINE

SECRET

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Supreme Court Decision Rendered	X													
Notice of Motion in Canadian Parliament	X													
Decision telephoned to London and summary of Decision prepared and forwarded by Intelpost to London	X													
HC distributes summary to key press contacts by hand and on press wire	X	X												
Reproduce copies of Supreme Court Decision in Ottawa (500 copies)	X													
HC commences distribution to Parliamentarians		X	X											
HC briefing session with press spokesmen available for TV/radio commentaries at 6-7 p.m. British media at Cda House (Possible Live interview at BBC Studios)	X													
Legal experts travel to Ldn with copies of complete text	X	X												
Roger Tassé briefing of key editorial writers at 12 or 1 p.m.		X												
Roger Tassé meetings with key officials and constitutional MPs and Lords		X	X	X	X									and continue as required
Tassé to meet Kershaw		X												
Debate in Cdn Commons followed by vote	X	X												

SECRET

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DAY OF
DECISION

PROGRAM OUTLINE

SECRET

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Forward text of Sunday Times article to Hicom. (George Anderson to draft)				X										
Debate in Senate followed by vote			X	X										
Strategic Discussions with Br. Officials			X	X										
PM phones Mrs. Thatcher and advises				X										
Ceremony at GGH					X									
Copies of final text in English and French delivered to Cabinet Office and FCO Officials					X									
Possible 3 interviews with PM by British TV and radio (preference for individual rather than group) BBC embargoed interview in a.m. preferred					X									
Address carried to Britain by Secretary to Governor General					X	X								
Minister accompanies Butler to Britain with copy of address for Br. Govt. together with instruments of Advice (?)					X	X								
Ministerial presentation to Mrs. Thatcher (picture opportunity)						X								

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DAY OF
DECISION

PROGRAM OUTLINE

SECRET

1 2 3 4 5 6 7 8 9 10 11 12 13 14

Ministerial meeting with Pym and
other selected, might be
arranged

X

Presentation of Address to
Sir Philip Moore by
Esmond Butler

X

Announcement of Receipt by
Palace (to be negotiated)

X

Sunday Times article
(1500-2000 words) appears

X

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DAYS 12 to 17

Between first and second reading of the bill at Westminster and with British Government concurrence, Ministerial briefings to the following groups, as opposed to individual members:

- A. Conservative Caucus: (i) Bow Group
 (ii) Constitutional Committee
 (iii) Foreign Affairs Committee
 (iv) 1922 Committee (Key members on a one-to-one basis)
- B. Labour Caucus: (i) Foreign Affairs Committee
 (ii) Home Affairs Committee
 (iii) National Executive Council (Broadbent)
- C. All Party Group in Lords
- D. Liberal Caucus
- E. SDP Caucus
- F. All Party Group in Lords
- G. Law Lords
- H. Commonwealth Parliamentary Association
- I. Royal Institute of International Affairs, Chatham House
- J. Diplomatic Writers Association

Anticipate: Press receptions in Britain
 Press conference for Canada

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POSSIBLE NAMES FOR JUNE BRIEFING PROGRAM

Invitations from University of London and other institutions

Labour MP's and Unions: Ed Broadbent
 Robin Sears - prepared to be debriefed
 Bob Rae
 Ian Deans)
 Shirley Carr (?)) unions

Conservative Committee Bill Davis)
 Tom Wells) Ontario
 Roy McMurtry)
 MacEachen
 Roy MacLaren
 Don Johnson (for one more)

Peter Ittinuar (use for last word to blunt impressions by Indians)

F. Fox - might be programmed for one briefing lunch in context of other priority activities

July 6: E. Whelan - might be programmed for one briefing lunch in context of other priority activities