

OUT TELEGRAM

Canada

		Classification and Caveats SECRET	Precedence/Deskby PRIORITY IMMEDIATE
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ZCZC
GRS
CLASS
CAVEATS
DESKBY
FM FCO
PRE/ADD
TEL NO

1	ZCZC	
2	GRS	
3	SECRET	
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6	FROM FCO	
7	TO PRIORITY OTTAWA	
8	TELEGRAM NUMBER	

MS

9 **CANADIAN CONSTITUTION**

10 1. Your telegram number 318. In the light of what the Chief
 11 Justice of the Supreme Court said at the Canada Day celebration
 12 yesterday, it now seems unlikely that we shall face the sort of
 13 situation envisaged by Pitfield in which the Canadians would be
 14 pointing a gun at our heads and asking us to pass constitutional
 15 legislation through Parliament before the summer recess.

16 2. The Chief Justice spoke to Sir Michael Havers, the Attorney
 17 General. Some of the conversation was in the hearing of
 18 Richardson, Counsellor at the Canadian High Commission. The
 19 latter has indicated to North America Department that he will
 20 be treating the conversation in strict confidence. He fully
 21 took the point which we put to him that it might be most
 22 embarrassing for the Chief Justice if the Canadian Government
 23 heard that he had been speaking in this manner in the UK. He
 24 clearly spoke more frankly to Sir Michael Havers than to others,
 25 in confidence and as between lawyers. Please therefore protect

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NNNN ends telegram	BLANK	Catchword fully.
File number	Dept NAD	Distribution Minimal: NAD Private Secretary PS/LPS PS/Mr Ridley PS/PUS Mr Freeland Legal Advisers PS/Chancellor of the Duchy of Lancaster Mr Henry Steel Law Officers Dept Private Secretary No 10 ✓ Sir R Armstrong Cabinet Office Mr Day Mr Ure
Drafted by (Block capitals) M S BERTHOUD		
Telephone number 233 4557		
Authorised for despatch <i>MSB</i>		
Comcen reference	Time of despatch	

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 2 fully.
 3 3. The Chief Justice said there was a major disagreement among
 4 the members of the Supreme Court. He was returning shortly to
 5 Ottawa but clearly did not expect this would bring about the
 6 immediate resolution of their difficulties. If no quick solution
 7 was found, he did not expect judgement to appear until the end
 8 of August. We needed to bear in mind that the judgement needed
 9 to be carefully polished and produced in both languages. The
 10 Attorney General commented that he could well see that a historic
 11 verdict of this kind needed to be meticulously prepared and
 12 polished.
 13 4. In view of the confidentiality of the Chief Justice's
 14 conversation with the Attorney General, it would clearly be
 15 wrong for you to reveal at this stage that we now have a clear
 16 indication of further likely delay by the Supreme Court. You
 17 will therefore want to respond to Pitfield's queries which were
 18 put on the basis of a possible judgement in early July. On his
 19 question whether there was any hope of early action here in the
 20 event of a clear line from the Supreme Court, I see no need for
 21 you to go beyond the language you have already used, quoting
 22 the Prime Minister and Lord Privy Seal.
 23 5. On the Government reply to the FAC, you should say that
 24 our position remains that this will not issue until the
 25 Parliamentary proceedings in Canada are at an end and until we
 26 know that the FAC themselves will not be producing a further
 27 report. In this connection, you might ask Pitfield whether he
 28 believes that Parliament is likely to reconvene early if the
 29 Supreme Court judgement is given after the beginning of their
 30 summer recess. (The Canadian High Commission here believe they
 31 are at present likely to reconvene on 13 or 14 October).
 32
 33 CARRINGTON
 34 NNNN

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