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Abstract

This article explores the patriation of the Canadian Constitution through the lens of Anglo-Canadian relations. More than a mere legal technicality, the move to transfer the power to amend the Canadian Constitution from the parliament of the United Kingdom to Canada witnessed unexpected debate, as disagreements in Canada collided with British political developments, including devolution, Thatcherism and the end of empire. To fully explore this episode, the article first examines the shared experience of separatist movements in the 1970s. It then turns to analyse the rhetoric surrounding the constitutional crisis. This is followed by an examination of the various episodes in which the constitutional dramas weakened Anglo-Canadian relations, before considering how the Constitution became intertwined with critical political debates in both countries, in particular the politics of devolution and of Thatcherism, testing Margaret Thatcher's leadership at a difficult time and forcing Pierre Trudeau to reconsider his 'inclusive' vision.

Keywords: constitutionalism, Trudeau, Thatcher, Anglo-Canadian, diplomacy, separatism, empire

Introduction

Now, more than half a century after Britain released its other dominions from the colonial apron strings with the 1931 Statute of Westminster, Canada comes of age: patriation day, 51 years late.

The Globe and Mail, 15 November 1982

Prime Minister Pierre Trudeau (1968–79, 1980–4) spoke often of an inclusive nation, one underpinned by a truly Canadian Constitution. As he put it in 1982, this would be ‘a Canada where men and women of aboriginal ancestry, of French and British heritage, of the diverse cultures of the world, demonstrate the will to share this land in peace, in justice, and with mutual respect’.¹ This vision had been apparent as early as the late 1960s, as Trudeau envisaged that a truly Canadian Constitution, including a Charter of Rights, would help to quell an increasingly vigorous new form of Quebec separatism.² This separatism manifested itself in various ways, ranging from the terrorist activity of the Front de Libération du Québec (FLQ) to the political campaigns of the Parti Québécois (PQ).³ These events were closely studied in Britain, especially by senior government officials, who simultaneously faced their own problems in Scotland, Wales and Northern Ireland.⁴

Such interest was amplified by the key problem at the heart of Trudeau’s plan: the right to amend the Canadian Constitution rested in Britain. While the Statute of Westminster in 1931 had abolished the power of the British parliament to legislate for and in respect to the other dominions, the Canadian provincial and federal governments had been unable to agree on the division of their powers. Thus, far later than might be assumed, the *political* relationship between Britain and Canada continued to be shaped by its imperial origins, until the Canadians were given full control over their own Constitution in 1982.

Nonetheless, patriating the Constitution was far from an easy process. While this is not the first account of the constitutional crisis – Frédéric Bastien’s recent book, for example, contains much valuable material – this article uses newly released material and archives on both sides of the Atlantic to develop a fuller account, one which pays greater attention to British political debates as well as mapping the Canadian side of the story.⁵ These sources clearly highlight the fundamental problem that threatened to undermine Trudeau’s plans: disagreement within Canada. Trudeau’s proposal in October 1980 for the federal government to proceed unilaterally with patriation had the support of only two out of the ten provinces, Ontario and New Brunswick.⁶

While provincial powers feared the loss of their powers vis-à-vis the federal government and voiced concerns over the Charter of Rights, the British government grappled with the question of how far to support the federal government in light of provincial opposition.⁷ The timing of this crisis in Anglo-Canadian relations intersected neatly with the politics of the time, as Labourites and nationalist MPs rebelled against the government, citing support for both the provinces and a disaffected group of First Nations peoples. It was not until November 1981 that all of the provinces, bar Quebec, reached an agreement that could be sent to Westminster, and the following April that Queen Elizabeth II signed Canada's constitutional proclamation in Ottawa.

Far from being the recondite area it might at first appear, this story is relevant for both British and Canadian historians beyond legal and constitutional studies. Within Britain, the disruption caused by, in the words of one Canadian journalist, the 'final, bitter chapter in the chronicle of Canada's journey to nationhood', which British diplomats recognized was the 'hottest issue at the time', highlights the difficulty of the unmaking of empire even in the early 1980s.⁸ In Canada, the exclusion of Quebec from the Constitution remains a profoundly sensitive question, a sentiment reflected in the fact that many of the relevant archival documents remain firmly closed in Ottawa.⁹

This study makes use of available British sources released in the summer of 2015 alongside Canadian materials. Drawing from these archival materials, contemporary press reports and interviews with politicians and diplomats, the study is predominantly a work of diplomatic history.¹⁰ Yet while this article is admittedly and necessarily limited in scope, it is also an exercise in cultural, intellectual, demographic and social history, following the trend towards the 'new' diplomatic history. This provides a basis from which to reinterpret this episode, understanding the way in which Trudeau's 'inclusive' vision was reshaped by a turbulent diplomatic relationship, and meeting the call of the historian Philip Buckner to return empire to a central place in Canadian historiography, reflecting a broader trend in 'world' and 'imperial' history.¹¹

British Perceptions of Quebec

French Canadians made up almost a third of the population of Canada in 1964.¹² For many, there was a sense of hostility towards what was perceived as the Anglo-Saxon establishment. As the Official Program

of the PQ in 1978 noted, 'anglophones have more than the lion's share of important positions, and have traditionally demonstrated a presence disproportionate to their numbers in advertising, newspapers, radio, and television.'¹³ During the World Wars this sentiment had been reflected in French-Canadian opposition to conscription: many were reluctant to fight for the British Empire, even though the British and French were allies.¹⁴ Yet from the early 1960s, political activists and intellectuals in Quebec drew from the examples of Third World decolonization to challenge the Anglo-Saxon establishment, using both violent and political methods.¹⁵ In doing so, these descendants of European colonizers ironically claimed to be fighting alongside other liberation movements worldwide – a point underlined by a FLQ statement that declared they 'saluted the Cuban and Algerian people who are heroically fighting against imperialism and colonialism in all its forms'.¹⁶

French-Canadian activism was clearly seen in 1964, on the occasion of the Queen's visit to Quebec. This tour provoked fears for the Queen's safety, as the FLQ threatened to shoot the Queen if she set foot on Quebec soil.¹⁷ British government officials seriously considered 'the situation which might arise if the Queen were to be assassinated'.¹⁸ Against this context, perceptions of Canada amongst the British public quickly became clouded by images of terrorism. Indeed, one of the only Mass Observation references to Canada across the period of this study concerns the Queen's safety in Quebec.¹⁹ *The Times* called for the cancellation of the visit, with Canadian newspaper magnet Campbell Stuart writing to the editor to comment that it would be a visit 'fraught with such lasting danger'.²⁰ Even following the trip itself, which saw only minor disruptions, the element of terror continued to be emphasized. The British Pathé newsreel for the Queen's visit, shown at cinemas across the country, emphasized that 'seldom before, if ever, had Her Majesty been so heavily guarded' as on her trip to Quebec.²¹ A similar tone was adopted in 1970, as ITV broadcast a film on the FLQ's kidnapping of British diplomat James Cross.²² Suddenly, therefore, Quebec separatism provided a new dimension to the Canadian image in Britain: the 'Unknown Dominion' became known for its terrorist troubles, placing both the Queen and other Britons at risk.²³

The wider political movement towards Quebec sovereignty found parallels in the 1970s with demands for devolution in Britain. The Royal Commission on the Constitution, established by Prime Minister Harold Wilson in 1969, reported in favour of devolved Scottish and Welsh assemblies in 1974. While political scientists have painstakingly emphasized the differences between Scotland, in particular, and Quebec,

contemporaries were less careful – a point overlooked by historical studies of the 1970s devolution debates and only fully revealed here.²⁴ The winter of 1976 was crucial, as the PQ swept to victory for the first time in November's provincial election under the leadership of René Lévesque – winning 71 out of 110 seats – in the same month that Jim Callaghan's government introduced devolution legislation for Scotland and Wales. Lévesque, who demanded an independent Quebec, met frequently with representatives of the Scottish National Party (SNP),²⁵ though he acknowledged that while 'there are many parallels ... we are further along the road'.²⁶ Indeed, British parliamentarians became interested in Quebec, which had its own provincial parliament, whenever the topic of British nationalisms appeared.²⁷ Quebec was used by both sides; Welsh Conservatives opposed to independence, for instance, actually visited the province and returned with arguments to buttress their case.²⁸

The PQ and its victory weighed heavily in the debates on the Scotland and Wales Bill in December 1976. Callaghan himself used Lévesque's victory to justify the legislation, which promised directly elected assemblies for Scotland and Wales: a 'vote for a party with a separatist dogma', as in Quebec, should be avoided in Britain through devolution.²⁹ Yet Callaghan's argument, surprisingly for someone who had extensively toured Canada in 1976 and had long expressed an interest and admiration for the country, revealed a flawed understanding of existing Quebec powers. Teddy Taylor, an anti-devolution Scottish Conservative member of parliament (MP), was quick to make this point: 'the recent events in Canada and Quebec show, if nothing else, that the existence of substantial devolved powers to territories or nations within a union will not of themselves automatically undermine or frustrate the forces of separatism.'³⁰ Evidently, political separatism in Quebec impacted upon political debate in Britain, and was used by both sides. It also revealed the deep connections between the SNP and PQ, which drew from the strength of each other. As one SNP MP warned, 'if [the Bill] fails and we win as ... the PQ recently won in Canada, so be it.'³¹

Given these connections, British diplomats kept a close eye on developments in Quebec, privately disapproving of the growing separatist movement. As the British High Commissioner John Johnston wrote in 1977, 'the fragmentation of Canada would unquestionably be detrimental to the interests of Her Majesty's Government and the Western world.'³² Another senior British diplomat had suggested in 1976 that the department would 'have to consider very carefully

whether there might be anything we could do to help preserve the unity of Canada'.³³ This anti-separatist opinion was largely shared by the British press, as illustrated by a *Financial Times* piece predicting the PQ's future: 'the party could not survive the moment of separation from Canada.'³⁴ In short, British attitudes towards Quebec separatism were largely negative, tempered by an underlying fear that the break-up of Canada could cause troubles amongst the Western alliance, and, crucially, within Britain itself.

Throughout these developments, Canadian Prime Minister Pierre Trudeau became aware in the late 1960s of the potential for a truly Canadian Constitution, which would be 'conceived in such a way that English, French and new Canadians all feel comfortable within it'.³⁵ Yet despite his promises, he failed throughout the 1970s to agree with the provinces on a package which could be sent to Westminster. Trudeau resented having to seek approval, declaring that Canada 'should not have to go cap in hand to another country'.³⁶ Yet in October 1980 he threatened to use the power of Westminster and to act against the provinces – to patriate the Constitution unilaterally – bringing the constitutional crisis to London.

'Patriation' vs 'Repatriation'

A common theme running throughout official documents relating to the crisis is Trudeau's employment of the term 'repatriation', versus the use of 'patriation', which was favoured by British officials and English Canadians. This discrepancy reflects the fraught nature of Trudeau's constitutional plans, which were infused with anti-colonial rhetoric. In common with the 'new political historians' and the new diplomatic history approach, this article takes language seriously and engages with Trudeau's counter-intuitive cultivation of the image of Canada as engaged in an anti-colonial struggle, akin to that of a Third World country.³⁷

The term 'patriation' is a contested contribution to the international vocabulary of politics and emerged during this crisis. It is derived from 'repatriation': to return something to its native land. Yet in the case of the Canadian Constitution, it was impossible to return a constitution that had never actually existed in Canada. British official records of this episode were thus labelled 'Patriation of the Canadian Constitution', and the term quickly became known amongst British politicians and the press. Nonetheless, Trudeau continued to speak of 'repatriation',

insisting that the Constitution should be firmly *back* in Canada, where it belonged. The employment of this term reflected Trudeau's French heritage: French Canada had lost its own form of constitution to the English in 1763. Indeed, the French-Canadian press continued to write of the '*rapatriement*' of the constitution; the French equivalent of 'patriation' was never invented.³⁸ Yet the use of the term also casts light on Trudeau's broader attitude towards the constitutional crisis, which framed the episode within a colonial discourse. The idea of bringing the Constitution *back* allowed Trudeau to signal antiquated, imperial-style interference in Canadian affairs whenever there was any hint that the British favoured the provinces, compelling one British MP to declare both terms 'horrid inventions'.³⁹

British officials were eager to dispense with formal responsibility for the Canadian Constitution. This is clear from press reports, which stressed that patriation was 'an irritating, anachronistic and anomalous reminder of British colonial supremacy'.⁴⁰ Despite the earlier desire to keep Canada united (discussed above), it seemed that pushing through the Constitution was the more important goal for the British, despite the damage this would have caused to federal-provincial relations. As Margaret Thatcher noted, 'the most dangerous prospect of all would be to substitute our judgement for that of the elected government of Canada.'⁴¹ In this respect, the narrative of the end of empire is not simply one of independence on the one hand and resistance on the other. Patriation clearly underlined the sense that the British wanted the issue taken out of their hands.

Just as the British emphasized their desire to shift responsibility for this outdated practice, Trudeau attempted to enliven the issue and frame it within a colonial discourse – an aggressive approach which was clearly noted in British diplomatic reports.⁴² As the British High Commissioner Sir John Ford commented in February 1981, Trudeau was willing to 'put pressure on HMG by accusing it of breach of promise and colonialism if HMG failed to deliver quickly at Westminster'.⁴³ Ford's reports are littered with references to Trudeau beating 'the anti-colonialist drum to whip up support for his unilateral action'.⁴⁴ While Ford's statements demand cautious interpretation, as this article will reveal, Trudeau's speeches themselves confirm how he explicitly emphasized the colonialist dimension of this episode, declaring in January 1981 that 'there would certainly be something very colonial, and announced as such, if I went over there as the Prime Minister of a sovereign country to beg the British parliamentarians to come to my side'.⁴⁵ Ironically, however, it was Trudeau who assumed the role of

imperial 'mother', telling reporters that 'if the British are wise, they'll get [the legislation] through quickly, and hold their nose while doing it'.⁴⁶ The Canadian press picked up on this, with *The Globe and Mail* commenting: 'When the Prime Minister of Canada goes to Westminster to ask for British help in clobbering the provinces that he can't cope with on his own, who is the colonial in this case?'⁴⁷

Trudeau's emphasis on Canada's vulnerability in this 'colonialist' struggle, ironically combined with his determination to direct activities in London, meant that it was not long before personal animosity towards him escalated. Interestingly, there were no explicit references to Trudeau's part-French heritage; British representatives were merely unappreciative of his methods, which reflected Trudeau's lack of foreign policy experience. The most outspoken figure was Ford, whose despatches from Ottawa revealed a deep disdain for the Canadian Prime Minister. References to 'Trudeau and his henchmen' were coupled with vitriolic statements such as that from December 1981: 'Trudeau's whole record since his school days shows that he is an intellectually arrogant bully who fights dirty and is not to be trusted.'⁴⁸ Anti-Trudeau sentiment ran deep within the veins of British policymakers.

February 1981 witnessed the 'first casualty of the patriation crisis' – Ford himself – following a series of events which have previously been discussed only briefly (in the absence of valuable archival material).⁴⁹ Amongst his staff at the High Commission Ford already had a poor reputation, with the Head of Chancery describing him as 'a gratuitous fool' and 'an idiot'.⁵⁰ Yet in early 1981 he managed to create national controversy in Canada by declaring, in the course of conversation with two Canadian MPs, that Trudeau's proposals were foolish and would not be approved in Westminster.⁵¹ Within hours of these comments, Ford called a press conference: 'Fingers laced behind his head, chair tilted back at an alarming angle', he further detailed 'how difficult it would be to get the resolution passed at Westminster.'⁵² While Ford claimed both at the time and in later interviews that there was considerable relief in London as a result of his actions, this was not apparent.⁵³ The encounter was quickly raised in the Canadian House of Commons, and Ford's conduct declared 'completely unacceptable'.⁵⁴ Complaints were sent to London, forcing Ford to 'retire' ahead of schedule, as internal disputes in the Foreign Office revealed themselves.⁵⁵ The tensions in Anglo-Canadian relations were evident to international observers, as the *New York Times* indicated this event suggested 'that the two parliaments are on a collision course'.⁵⁶ Trudeau's case for British 'colonial' interference had finally found its culprit in Ford.

Problems in London

Ford's prediction came in the face of significant provincial opposition to Trudeau's constitutional reforms, which had begun to influence MPs in Westminster. While existing accounts have placed emphasis on the activities of Québécois officials in London, opposition in the beginning was far more widespread. Indeed, until a deal was struck in November 1981, the so-called 'Gang of Eight' provinces (only Ontario and New Brunswick supported Trudeau), firmly opposed to the division of powers that Trudeau's proposals offered, lobbied vigorously in London through their agents-general. Backbench MPs were susceptible to the lures of these agents-general, who 'with the help of an expensive chef and a very fine cellar, wined and dined every British parliamentarian who wanted a free meal'.⁵⁷ As one unnamed Labour front-bencher remarked, 'I could have dined out for weeks at a time on the invitations I was getting from various Canadians.'⁵⁸ 'Blizzards' of letters were also sent to MPs, with every possible initiative taken by the provinces to ensure they were heard in London.⁵⁹

The subject of federal versus provincial alliance was magnified in January 1981, as the British Commons' Foreign Affairs Committee, under the chairmanship of Sir Anthony Kershaw, declared that it would be wrong for UK MPs to favour Trudeau's proposals in light of provincial opposition.⁶⁰ Trudeau immediately denounced the committee, declaring that 'they have no right to decide what's good for Canada'.⁶¹ Nonetheless, the judgment provided a basis for MPs to challenge Thatcher's support of the federal cause, as plainly evidenced by the debates which soon unfolded in the Commons.⁶² According to Francis Pym, Leader of the Commons, around 50 MPs were interested in the measure, 'more than enough to cause problems'.⁶³ The decision also provoked unrest in the Foreign Office. One official argued that 'we should not allow the Canadian government to dictate to us who we should or should not see', concluding that officials should not refuse to see any provincial ministers.⁶⁴ Despite Thatcher's veneer of confidence in the federal government's plans, both Westminster and Whitehall were internally agitated by the question of whether or not to support provincial demands.

Thatcher's continued support for the Constitution was remarkable given that it challenged Thatcher's belief in the principle of parliamentary sovereignty, so much so as to warrant the only mention of Canada in Thatcher's memoirs.⁶⁵ The problem was Trudeau's Charter of Rights and Freedoms, to be passed alongside the patriation legislation.⁶⁶ The Charter's provisions for *judicial* interpretation and enforcement, which

meant Canadian courts would assume a much more important role in defining the meaning of the enumerated rights, troubled Thatcherite Conservatives greatly.⁶⁷ Primarily, Trudeau's proposals went against the British tradition of an unwritten constitution. Yet the Charter violated Thatcher's own belief in the principle of *parliamentary* sovereignty, a topic on which she had spoken just months earlier: 'We are determined to return to the first principles which have traditionally governed our political and economic life, namely ... the paramountcy of Parliament for the protection of fundamental rights.'⁶⁸ This clash in fundamental beliefs explains the continued attempts by government ministers to dissuade Trudeau from attaching the Charter to the patriation process. Records show that Foreign Secretary Lord Carrington was particularly concerned, while Cabinet Secretary Robert Armstrong advised Thatcher to direct Trudeau to amend his request, 'so that all that Westminster is required to do is simply to patriate ... leaving other matters to be dealt with in Canada where they belong'.⁶⁹

In spite of pressure from her advisers, Thatcher pushed ahead in supporting Trudeau's proposals, a move that casts light on Thatcher's attitude towards empire more broadly.⁷⁰ As with so many other elements of her premiership, there was a clear disparity between Thatcher's rhetoric and her actual policy. For while Trudeau's Charter directly contradicted Thatcherite principles, the reality was that she could not afford to come under criticism for interfering in Canadian internal affairs. Indeed, Thatcher had long advocated closer ties with Canada and the Commonwealth; she also had personal connections, with her husband Dennis having been awarded an MBE for his wartime efforts in negotiating safe movement for Canadian troops.⁷¹ In 1981, Thatcher's own position was still precarious; commentators expected to see her removed from the party leadership by the end of the year.⁷² She simply could not afford to open the 'political can of worms' that was the Canadian Constitution; thus her response was merely to 'refuse to get into any discussion of the merits of the proposals'.⁷³ This is an episode which, while overshadowed by the Falklands crisis, tells historians much about the connection between domestic politics and Thatcher's foreign policy.⁷⁴

Passing the Canada Bill

A major turning point occurred in September 1981: the Supreme Court of Canada ruled that Trudeau's proposals were legal but ran counter

to constitutional conventions. In the words of *The Guardian*, they were 'legal but not gentlemanly'.⁷⁵ While neglected by BBC news coverage at the time, this decision had an impact on Thatcher's cabinet.⁷⁶ The British Attorney General advised that Trudeau 'should be asked to seek a measure of consensus within Canada before submitting any request', aware of backbench sympathies for the provinces.⁷⁷ The Canadian government's decision to keep many of the files on this topic closed makes it difficult to tell how far British advice pushed Trudeau back to the negotiating table. Nonetheless, Trudeau's emergency conference in November witnessed the collapse of the 'Gang of Eight', with only Quebec continuing its opposition. The British saw nine out of ten provinces as good enough: 'it looks as if this is going to get us off the hook.'⁷⁸

Despite new levels of provincial support, debates in Westminster continued, and when the Canada Bill passed in March 1982, 44 MPs voted against it. While this may, at first glance, seem an obscure parliamentary vote, a closer examination reveals how the Constitution became intertwined with broader British political debates and trends, including those surrounding devolution, anti-colonialism and the disarray of the Labour Party in the early 1980s.

Of the 44 MPs who voted against the Canada Bill, 33 were rebellious Labourites who, contrary to expectations that pro-Empire Tories would vote against such legislation, had formed an unusual alliance with the First Nations peoples of Canada, who were still known at this time as 'Red Indians'.⁷⁹ Canada's constitutional representative in London, Reeves Haggan, feared the influence of the First Nations: 'the noble Red Indian is a part of every British childhood. Cowboys are villains.'⁸⁰ Indeed, unlike the lobbying of the provinces, the efforts of the First Nations peoples reflected a long-standing historical precedent: when they learned that their 'special status' accorded to them by the British North America Act would be eroded by Trudeau's proposals, they naturally emerged in London to petition their case.⁸¹

Within the Labour Party, First Nations peoples formed links with Bruce George (known as a 'genial rascal' to British diplomats), Denis Healey (Shadow Foreign Secretary) and Stanley Clinton Davis (the party's spokesman on the Bill).⁸² The Labour Party had initially approved of such activity;⁸³ it saw it as a symbolic blow to Trudeau, who had been significantly influenced by the Labour Party during his time at the London School of Economics.⁸⁴ Nonetheless, when it finally came to the vote, Labour leader Michael Foot is reported to have told Labourites to support the Bill, a stance likely adopted due to Foot's

amicable relationship with Trudeau and other supporters of the federal government's proposal.⁸⁵ Notwithstanding Foot's final approach, initial confusion over the party's position and the eventual rebellion of the 33 Labourites underlines the disordered state of Labour in the early 1980s.

To a lesser extent, the politics of devolution also influenced the course of debate. Of the additional 11 MPs who voted against the Bill, three were Conservatives and the remaining eight represented the nationalist parties in Westminster: all of the Plaid Cymru, SNP and Ulster Unionist Party MPs, bar one, voted against the Bill. Interestingly, all of these MPs – except one – remained largely silent, though Quebec was frequently considered by others speaking in favour and against.⁸⁶ The symbolic vote of these MPs reflected the broader debates about devolution in Britain, and also showed how the concerns for Canadian unity discussed above had largely disappeared in the face of the crisis.

The one prominent individual to speak up was the Ulster Unionist Party MP, Enoch Powell, a former Conservative and a fierce anti-imperialist. Powell's opposition emerged out of his resentment that Westminster had to legislate for Canada in the first place: 'there is a saying that authority deserts a dying king; but this king has been long, long dead.'⁸⁷ Indeed, while Powell generally distrusted America, he advised the Canadians to follow the example of America by independently cutting the umbilical cord to Britain:⁸⁸ 'It must be done by the Canadians among themselves and for themselves.'⁸⁹ Additionally, Powell's earlier experiences in India, which had led him to believe in the nation as one homogenous entity, allowed a sharper critique of the Bill itself.⁹⁰ Acknowledging that Trudeau's Constitution explicitly went against this lesson, perpetuating the bonds between the French and English elements of Canada, Powell argued that to support it would be 'participation in a deceit'.⁹¹ Powell's attitude reflects on how significant Britain's earlier experiences of empire were in shaping opinion on the Canadian Constitution.

Despite the varied factors which prompted opposition to the Bill, all those who voted against benefited from a technicality which had created the perfect opportunity to make 'political mischief', and reflects how the Bill was a special case in parliamentary history.⁹² The fact that the Canada Bill had to be passed in both English and French, a situation which had not occurred since 1484, meant that there was, also as Lord Carrington put it, 'endless scope for procedural delays unconnected with the merits of the bill'.⁹³ As this article has explored, however, the 44 votes against the Canada Bill reflect various and important elements of both British and Canadian domestic issues: the disordered state of the

Labour Party, the politics of devolution and the prominence of the First Nations peoples key amongst them.

Conclusion

In September 1983, Margaret Thatcher told the Canadian parliament that ‘together we have successfully stored our last piece of colonial furniture in the museum of history’.⁹⁴ Thatcher’s statement, reflecting on the patriation of the Canadian Constitution, underlines the central argument of this study: for Britain’s most senior dominion, the end of empire was a far more protracted process than existing histories suggest, and debates were much more than mere constitutional technicalities.

As this article has argued, Trudeau daringly framed the crisis within a colonial discourse, provoking British officials who confronted such anti-colonial rhetoric throughout the Commonwealth. Despite Thatcher’s wish to pass the Bill as quickly as possible in order to shift responsibility for this anachronistic issue, British rebellions throughout the period 1980–2 served to disrupt Anglo-Canadian relations, including the Kershaw Committee, Sir John’s ‘retirement’ and the opposition the Bill faced at Westminster.

Notwithstanding this episode’s impact on the Anglo-Canadian relationship, this article has also suggested that patriation had interesting implications for the politics of both countries on their own terms. On the Canadian side, it is highly likely that the opposition Trudeau faced in Britain was a factor in making him review the terms of his proposal in order to gain provincial support – a suggestion that may be borne out as the relevant Canadian archival materials become available. Ultimately, Trudeau’s efforts and the votes of British parliamentarians gave Canada its own Constitution and Charter of Rights. However, Trudeau’s decision to patriate despite Quebec’s opposition had a significant impact on Canada’s long-term political evolution. This can be seen when considering the Meech Lake and Charlottetown Accords, which both attempted to bring Quebec back into Canada’s constitutional framework.

While British histories have ignored this episode, the newly available sources examined here have pointed to telling reasons to change this. Far from being obscure constitutional questions, patriation and Quebec separatism became interwoven with British political debates at home surrounding devolution, Thatcherism and the end of empire, and showed that the break in Britain’s political relations with her most

senior dominion came at a point far later than the traditional dating of the ‘end of empire’. Indeed, the Canada Act preceded the patriation of Australia and New Zealand’s constitutions in 1986, though these were wholly dissimilar from Canada’s constitutional arrangements. As the sources examined here have shown, Canada’s patriation process was a complex story, one where debates over Canada’s national identity and the direction of the diplomatic Anglo-Canadian relationship intersected with significant political debates in Britain.

Notes

- 1 Pierre Trudeau, *Remarks by the Prime Minister at the Proclamation Ceremony on April 17, 1982* (Ottawa: Office of the Prime Minister, 1982), 7.
- 2 For the best overview of Trudeau’s constitutional package, see Robert Sheppard and Michael Valpy, *The National Deal* (Toronto: Macmillan, 1984) or Roy J. Romanow, Howard A. Leeson and John D. Whyte, *Canada ... Notwithstanding: The Making of the Constitution 1976–1982* (Toronto: Thomson Carswell, 2007).
- 3 On the development of Quebec separatism, see Léon Dion, *La Révolution Déroutée: 1960–1976* (Montréal: Boréal, 1998); Sean Mills, *The Empire Within: Postcolonial Thought and Political Activism in Sixties Montreal* (Montreal: McGill-Queen’s University Press, 2010).
- 4 For a closer examination of devolution in Britain, see Vernon Bogdanor, *Devolution in the United Kingdom* (Oxford; New York: Oxford University Press, 2001).
- 5 Frédéric Bastien, *The Battle of London: Trudeau, Thatcher, and the Fight for Canada’s Constitution*, trans. Jacob Homel (Toronto: Dundurn, 2014).
- 6 Bastien, *The Battle of London*, 24.
- 7 As the Premier of Newfoundland, Brian Peckford, declared: ‘It has long been considered unthinkable that the federal Government would abuse its role as the sole government empowered under our constitution to send the United Kingdom an amending message, [unthinkable] that it would propose something that was clearly to the detriment of the rights of the provinces without their consent.’ *The Globe and Mail*, 27 November 1980.
- 8 *The Globe and Mail*, 15 November 1982; Bastien, *The Battle of London*, 19.
- 9 A survey in 2012 found that 44.5 per cent of Quebecers would still support separation from Canada if the Constitution could not be changed enough to satisfy the majority of the province. *The Globe and Mail*, 26 March 2012.
- 10 Beginning in the 1980s, diplomatic historians have considered the influence of a broader constellation of ideas – including race, gender and culture – in charting the interactions among nations. See, for example, Andrew Preston, *Sword of the Spirit, Shield of Faith: Religion in American War and Diplomacy* (New York & Toronto: Alfred A. Knopf, 2012).
- 11 Phillip Buckner, ‘Whatever Happened to the British Empire?’ *Journal of the Canadian Historical Association* 4.1 (1993): 3–32.
- 12 *The Guardian*, 12 October 1964.
- 13 Michael Laslovich, ‘The Parti Quebecois and Quebec Separatism’, unpublished MA thesis (University of Montana, 1978), 79.
- 14 Frank Wilson, ‘French-Canadian Separatism’, *The Western Political Quarterly* 20.1 (1967): 117.
- 15 Mills, *The Empire Within*, 3.
- 16 Marianopolis College: Documents in Quebec History, The Demands of the FLQ, 6 October 1970, <http://faculty.marianopolis.edu/c.belanger/quebechistory/docs/october/demands.htm> (accessed 15 March 2016).
- 17 *The Guardian*, 30 April 1964.
- 18 The National Archives at Kew (TNA): PREM11/5062, Note for file – ‘The

- Queen's Visit to Canada' by Donald Maitland, 17 September 1964.
- 19 On 11 October 1964, one diarist wrote: 'I was downstairs again before 7 o'clock – eager to see how the Queen got on at Quebec. Times change ... I'll be glad when she is on her way home,' Mass Observation: Diarist 5353, entry for 11 October 1964.
 - 20 *The Times*, 16 September 1964.
 - 21 British Pathé: 1773.11, 'The Queen in Quebec', 15 October 1964: <http://www.britishpathe.com/video/queen-in-quebec> (accessed 15 January 2016).
 - 22 The film interviewed various members of the family of James Cross, including his brother-in-law, who was 'critical of the Canadian government and of HMG and argues that humanitarian considerations should prevail'. Foreign Office officials worried the film would merely achieve the FLQ's primary goal: publicity. See TNA: PREM15/17, unknown FCO official to Hayman, 26 November 1970.
 - 23 For an account of Quebec–UK relations in this period, see Tony McCulloch, 'A Quiet Revolution in Diplomacy: Quebec–UK Relations since 1960', *American Review of Canadian Studies* 46.2 (June 2016): 176–87.
 - 24 For an example of an attempt to discredit comparisons between Quebec and Scotland, see Charlie Jeffery, 'Devolution, Social Citizenship, and Territorial Culture: Equity and Diversity in the Anglo-Scottish Relationship', in *Anglo-Scottish Relations from 1900 to Devolution and Beyond*, Proceedings of the British Academy 128, ed. William Lockley Miller (Oxford; New York: Oxford University Press, 2005), 116.
 - 25 In 1977, a British diplomat commented on the risk of a potential visit by Lévesque to London: it would prompt 'questions in the House from Scottish Nationalists, with whom Mr Lévesque has links'. See TNA: FCO82/692, T. Empson to Ramsay Melhuish, 10 November 1977.
 - 26 *The Globe and Mail*, 26 June 1975.
 - 27 For instance, Labour MP Eric Heffer used Quebec to argue against Welsh nationalism. See HC Deb 02 March 1978, vol. 945, col. 703. Similarly, Scottish MP Malcolm Rifkind suggested that, as the example of Quebec showed, a referendum ran the risk of provoking a 'constitutional crisis'. See HC Deb 25 January 1977, vol. 924, col. 1328.
 - 28 See HC Deb 15 November 1977, vol. 939, col. 437.
 - 29 HC Deb 13 December 1976, vol. 922, col. 976.
 - 30 HC Deb 14 December 1976, vol. 922, col. 1251.
 - 31 HC Deb 25 January 1977, vol. 924, col. 1344.
 - 32 TNA: FCO82/690, John Johnston, 'Diplomatic Report No. 161/77', 28 March 1977.
 - 33 TNA: FCO82/628, Melhuish to Bertrand Anthony, 23 December 1976.
 - 34 *Financial Times*, 11 May 1971.
 - 35 Daniel Johnson, 'Canada and Quebec: Can This Marriage Be Saved?' in *The Nation Keepers: Canadian Business Perspectives*, ed. Isaiah Litvak (Toronto: McGraw-Hill, 1967), 201.
 - 36 *The Times*, 7 July 1980.
 - 37 See S. Fielding, 'Review Article Looking for the "New Political History"', *Journal of Contemporary History* 42.3 (2007): 515–24.
 - 38 See, for example, *La Presse*, 10 May 1970: "M. Pierre Elliott Trudeau s'est engagé à rapatrier unilatéralement la constitution" [translation: Trudeau is committed to unilaterally repatriating the constitution].
 - 39 Conservative MP Piercy Grieve, HC Deb 17 February 1982, vol. 18, col. 356.
 - 40 *The Times*, 17 April 1982.
 - 41 TNA: PREM19/55, Thatcher's note on a letter from Armstrong to Michael Alexander, 9 October 1980.
 - 42 For an overview of the Commonwealth in the 1980s, and the British government's attitude towards it, see Taylor, 'The Commonwealth in the 1980s: Challenges and Opportunities' in *The Commonwealth in the 1980s*, ed. A. J. R. Groom and Taylor (London: Palgrave Macmillan, 1984), 305–323.
 - 43 TNA: PREM19/397, John Ford to Peter Carrington, 8 February 1981.
 - 44 TNA: PREM19/397, John Ford to Peter Carrington, 8 February 1981.
 - 45 TNA: PREM19/397, Trudeau Press Conference, 22 January 1981.
 - 46 *The Guardian*, 2 February 1981.
 - 47 *The Globe and Mail* advertisement in *The Times*, 3 December 1980.
 - 48 TNA: FCO82/821, Martin Berthoud to Ford, 30 September 1980; TNA: FCO82/1072, Ford to Carrington, 21 December 1981.
 - 49 *The Times*, 11 February 1981.

- 50 Robert Bothwell's interview with Terry Empson, London, 7 October 1987. Interview transcript courtesy of Robert Bothwell.
- 51 TNA: FCO82/1027, 'Record of a Conversation between the Chief Clerk and Mr A.E. Gotlieb', 9 February 1981.
- 52 *The Globe and Mail*, 14 November 1982.
- 53 Ford wrote to the Head of the Diplomatic Service, Michael Palliser, claiming that his conference had 'effectively destroyed the veil of half-truths which Trudeau had been weaving'. See TNA: FCO82/1072, Ford to Palliser, 11 March 1981; Paul Litt's interview with John Ford, London, 23 February 1989. Interview transcript courtesy of Robert Bothwell.
- 54 *The Globe and Mail*, 14 November 1982.
- 55 Palliser wrote to Ford, lambasting him for his actions and attacking Ford for an earlier claim that he had not received full instructions: 'I do not intend to labour the point unduly, but I feel bound to comment on your assertion that you have been without adequate guidance ... I would have hoped the message was clear - in particular the indication that we should not appear at any stage to be encouraging Provincial opposition to the Federal Government's proposals, awkward though they are for us.' See TNA: FCO82/1072, Palliser to Ford, 24 February 1981.
- 56 *New York Times*, 14 February 1981.
- 57 Pierre Elliott Trudeau, *Memoirs* (Toronto: McClelland & Stewart, 1993), 311.
- 58 *The Globe and Mail*, 15 April 1982.
- 59 *New York Times*, 14 March 1981.
- 60 This decision was based on Section 7 of the 1931 Statute of Westminster, which declared that the British parliament was a guarantor of the rights of the provinces.
- 61 *The Guardian*, 2 February 1981.
- 62 In February 1981, the Conservative MP for Harrow Central, Anthony Grant, asked Thatcher if she would 'also confirm the view of the Select Committee on Foreign Affairs that the duty of this House is to consider the wishes of the Canadian people as a whole and not the diktat of Mr Trudeau?' See HC Deb 12 February 1981, vol. 1981, col. 981.
- 63 Jack Granatstein's interview with Lord Francis Pym, House of Lords, London, 9 February 1989. Interview transcript courtesy of Robert Bothwell.
- 64 TNA: FCO82/821, D.M. Day to Berthoud, 15 October 1980.
- 65 Thatcher wrote of the 'sensitive question' of the Canadian Constitution. See Margaret Thatcher, *The Downing Street Years* (London: HarperPress, 2011), 320.
- 66 This document served only to exacerbate existing ideological tensions between the two prime ministers. In a later interview, Lord Pym confirmed that 'Margaret and Pierre did not like each other. She thought Trudeau proposed measures for which others had to pay', a reference to Trudeau's left-wing politics. Granatstein's interview with Pym, House of Lords, London, 9 February 1989. Interview transcript courtesy of Robert Bothwell.
- 67 For a fuller discussion of the Canadian Charter of Rights and Freedoms, see Roy J. Romanow, 'The Canadian Charter of Rights and Freedoms', *Canadian Social Work Review* 4 (1986): 9-21.
- 68 Churchill College Archives Centre (CAC), Cambridge, Margaret Thatcher Papers, Speech at White House Dinner, 17 December 1979.
- 69 TNA: FCO82/821, 'Record of a Conversation between the Foreign and Commonwealth Secretary and the Canadian Minister of the Environment and Secretary of State for External Affairs at the House of Lords', 6 October 1980; PREM19/143, Armstrong to Thatcher, 31 October 1980.
- 70 In response to press questions in 1981, Thatcher firmly declared that 'when we get the request from the Canadian Parliament we will try to deal with it as expeditiously as we can in accordance with precedent and the law of the land.' See CAC, Cambridge, Margaret Thatcher Papers, Press Conference for Washington Press Club, 26 February 1981.
- 71 Thatcher declared that: 'Our Anglo-Saxon heritage embraces the countries of the Old Commonwealth that have too often been neglected by politicians in this country, but are always close to the hearts of British people. We believe that we should build on our traditional bonds with Australia, New Zealand and Canada.' See CAC, Cambridge, Margaret Thatcher Papers, Speech at Kensington Town Hall, 19 January 1976; *The Guardian*, 27 June 2003.
- 72 E. H. H. Green, *Thatcher* (London: Hodder Arnold, 2006), 3. As Green points out, George Brown (the Labour grandee who made the comment) had become an

- admirer of Thatcher, and therefore this was not Labourite wishful thinking.
- 73 TNA: FCO82/1072, Ford to Michael Palliser, 7 January 1981; TNA: PREM19/143, Alexander to Paul Lever, 6 October 1980.
- 74 For a broader discussion of Thatcher's foreign policy, see Robin Renwick, *A Journey with Margaret Thatcher: Foreign Policy under the Iron Lady* (London: Biteback, 2013).
- 75 *The Guardian*, 30 September 1981.
- 76 *The Globe and Mail* noted with dismay that the Canadian Supreme Court decision had not been deemed newsworthy enough for the BBC. *The Globe and Mail*, 29 September 1981.
- 77 TNA: PREM19/398, 'Record of Cabinet Meeting: Patriation of the Canadian Constitution', 30 September 1981.
- 78 TNA: FCO82/1054, Note by Brian Berry, 5 November 1981.
- 79 For a more focused discussion of the lobbying of the aboriginals in London, see Bruce George and Michael Woodward, 'The Canadian Indian Lobby of Westminster', *Journal of Canadian Studies* 18.3 (1983): 119–43.
- 80 Robert Bothwell's interview with Reeves Haggan, Ottawa, 4 February 1988. Interview transcript courtesy of Robert Bothwell.
- 81 Their petitions to the British Crown can be traced back to the American War of Independence, when Mohawk chief Joseph Brant completed a pilgrimage to London, seeking a British commitment to defend the Six Nations' territorial interests in return for military support.
- 82 TNA: FCO82/819, Berthoud to Emrys Davies, 30 July 1980.
- 83 In March 1981 the party's international department had circulated a document to MPs recommending they vote against the Bill. See *The Times*, 5 March 1981.
- 84 Trudeau's memoirs record how 'political life was teeming with colourful personalities whom my main teacher, Harold Laski, would invite to the school. I remember a brilliant speech by Aneurin (Nye) Bevan, the great Welsh orator who was a minister in the government', from Trudeau, *Memoirs*, 46.
- 85 Bothwell's interview with Haggan, Ottawa, 9 February 1988. Bastien, *The Battle of London*, 254.
- 86 On the one hand, Conservative MP Sir Bernard Braine was part of the minority who reflected on the British desire discussed above to keep Canada united, warning that if 'that delicately balanced unity is shattered and Quebec is driven from the Confederation, we shall rightly be blamed by future generations of Canadians and Quebecois'. See HC Deb 08 March 1982, vol. 19, c. 670. On the other hand, Denis Healey argued that because 'we have not altogether dissimilar problems in Scotland and Wales on which we would not want the Canadian Parliament to interpose its views', the Bill should be passed. See HC Deb 17 February 1982, vol. 18, col. 300.
- 87 HC Deb 17 February 1982, vol. 18, col. 320.
- 88 HC Deb 17 February 1982, vol. 18, col. 321.
- 89 HC Deb 17 February 1982, vol. 18, col. 322.
- 90 For a closer discussion of Powell's thoughts on nations, and the British Empire more broadly, see Peter Brooke, 'India, Post-Imperialism, and the Origins of Enoch Powell's "Rivers of Blood" Speech', *The Historical Journal* 50.3 (2007): 669–87.
- 91 HC Deb 03 March 1982, vol. 19, col. 353.
- 92 TNA: PREM19/669, Carrington to Lord Moran, 5 February 1982.
- 93 TNA: PREM19/669, Carrington to Lord Moran, 5 February 1982.
- 94 CAC, Thatcher Papers, Speech to the Canadian Parliament, 26 September 1983.

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