

Canadian High Commission



Haut Commissariat du Canada

February 12th, 1981

The Rt. Hon. Margaret Thatcher MP
Prime Minister
House of Commons
London SW1A 0AA

My Dear Prime Minister

There seems to be increased interest in the expected request by the Canadian Parliament for the Patriation of the British North America Act.

A speech delivered by the Honourable M. MacGuigan, Secretary of State for External Affairs, in Edmonton, Alberta, on February 6th represents a first response to the major conclusions of the House of Commons Foreign Affairs Committee. A copy of this speech is appended for your information.

The first week of February witnessed the long-awaited decision of the Court of Appeal of the Province of Manitoba on the constitutionality of the Federal Government's proposals. The Court's opinion, although not unanimous, was in favor of the Federal Government. Chief Justice Freedman, in leading the majority, rejected the Provincial argument that the Federal Government is attempting to have Westminster do indirectly what it cannot do directly in Canada. I quote from the Chief Justice's summary:

The Attorney General of Manitoba alleges that because the Parliament of Canada cannot legislate to amend the Constitution of Canada in certain respects, it, therefore, cannot request that the Parliament of the United Kingdom, which has full legislative authority, legislate. It is claimed that to do so would be to do indirectly what cannot be done directly. This is a complete misapplication of a well known maxim. The fact is that nothing is being done indirectly. Should the Senate and House of Commons send the proposed joint address to Westminster, they would be doing directly exactly what they have always done directly in such cases, and the United Kingdom Parliament, in acting upon the request, would be doing directly exactly what it has always done directly when given such a request.

In due course my government will be preparing a more detailed commentary upon the conclusions reached by the Foreign Affairs Committee and I look forward to sharing this with you when I have it in hand.

Yours sincerely

A handwritten signature in blue ink that reads "Jean Casselman Wadds".
Jean Casselman Wadds
High Commissioner