



Prime Minister

BRITISH NORTH AMERICA ACTS 1867-1964

I have seen a copy of the Home Secretary's minute of 2 October about the patriation of the Canadian Constitution. In view of the forthcoming call on you on Monday 6 October by the two Canadian emissaries from Mr Trudeau (Mr Roberts, Environment, and Mr MacGuigan, External Affairs), it may be useful to have our reaction.

The Home Secretary raises two linked issues, of substance and of timing. To take first the question of timing, when he was in Canada in June, the Minister of State, Mr Ridley, told the Canadian Minister of Justice, Mr Chretien, that the Canadians should give us ample warning if there was any question of seeking patriation; the Parliamentary time-table was very full, and unless we had adequate notice, the UK Parliament might not be able to deliver the goods at the right time. When the Canadian Prime Minister saw you on 25 June, he said that the Canadians, if they made remarkable progress, would work on or set a deadline of Spring or early Summer 1981; but if there were further disagreements there might be more delay. You explained that it would make it easier for HMG if Canada were united in its approach. At a meeting with FCO officials on 26 September, it was made plain to Canadian legal experts that the legislative process in the UK would not necessarily be plain sailing.

Despite the indications already given to the Canadians, they no doubt hope that it will be possible to pass the necessary legislation quickly, certainly during the forthcoming session of Parliament. We shall need to consider this carefully in the light

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of the message brought by the two Canadian Ministers. Meanwhile, I agree with the Home Secretary that we should not make any firm promises about the timing of our legislative programme.

On the question of substance, the Canadian proposals, which we saw for the first time on 25 September, do indeed incorporate a 'Charter of Rights and Freedoms'. Our officials made it clear to Canadian officials the following day that we would prefer a simpler and more limited provision, providing for patriation and an amending formula only. We did not however imply that HMG would decline to enact legislation such as that proposed last week by the Canadians. To do so would undoubtedly cause us serious difficulties with the Canadian Government. This question of substance will certainly need to be considered most carefully, as the Home Secretary suggests. Your meeting with the Canadian Ministers will provide an opportunity for us to indicate that a simpler and less contentious formula would create fewer difficulties for us and facilitate our parliamentary processes.

I am copying this minute to members of The Queen's Speeches and Future Legislation Committee, and to Sir Robert Armstrong.

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3 October 1980

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