

*The Constitution*

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** I should just like to say to those two cosy partners that I will not interfere with them.

**Some hon. Members:** Oh, oh!

**Mr. Nielsen:** Often I feel that three is a crowd, but in this situation I do not at all. I point out that both subamendments on the motion have been from the little red rump, not from here.

**Mr. Deans:** Madam Speaker, I should just like to make one point about the cosy arrangement. I was not party to the discussions today between the House leader of the official opposition and the House leader of the government when they arranged what was put on the floor of the House by them.

**Some hon. Members:** Oh, oh!

[*Translation*]

**Mr. Pinard:** Madam Speaker, the member for Hamilton Mountain (Mr. Deans) is absolutely right. However, I did

inform him of my conversation with the House Leader of the Progressive Conservative Party.

[*English*]

In answer to the offer of the hon. member for Yukon, I am willing to meet him right now in my office.

**Some hon. Members:** Hear, hear!

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**GOVERNMENT ORDERS**

[*Translation*]

**THE CONSTITUTION**

RESOLUTION RESPECTING CONSTITUTION ACT, 1981

The House resumed, from Wednesday, November 25, consideration of the amended motion of Mr. Chrétien:

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THAT, WHEREAS in the past certain amendments to the Constitution of Canada have been made by the Parliament of the United Kingdom at the request and with the consent of Canada;

AND WHEREAS it is in accord with the status of Canada as an independent state that Canadians be able to amend their Constitution in Canada in all respects;

AND WHEREAS it is also desirable to provide in the Constitution of Canada for the recognition of certain fundamental rights and freedoms and to make other amendments to that Constitution;

A respectful address be presented to Her Majesty the Queen in the following words:

To the Queen's Most Excellent Majesty:  
Most Gracious Sovereign:

We, Your Majesty's loyal subjects, the House of Commons of Canada in Parliament assembled, respectfully approach Your Majesty, requesting that you may graciously be pleased to cause to be laid before the Parliament of the United Kingdom a measure containing the recitals and clauses hereinafter set forth:

CONSIDÉRANT :

que le Parlement du Royaume-Uni a modifié à plusieurs reprises la Constitution du Canada à la demande et avec le consentement de celui-ci;

que, de par le statut d'État indépendant du Canada, il est légitime que les Canadiens aient tout pouvoir pour modifier leur Constitution au Canada;

qu'il est souhaitable d'inscrire dans la Constitution du Canada la reconnaissance de certains droits et libertés fondamentaux et d'y apporter d'autres modifications,

il est proposé que soit présentée respectueusement à Sa Majesté la Reine l'adresse dont la teneur suit :

A Sa Très Excellente Majesté la Reine,  
Très Gracieuse Souveraine :

Nous, membres de la Chambre des communes du Canada réunis en Parlement, fidèles sujets de Votre Majesté, demandons respectueusement à Votre Très Gracieuse Majesté de bien vouloir faire déposer devant le Parlement du Royaume-Uni un projet de loi ainsi conçu :

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ANNEXE A—SCHEDULE A

An Act to give effect to a request by the Senate and House of Commons of Canada

Loi donnant suite à une demande du Sénat et de la Chambre des communes du Canada

Whereas Canada has requested and consented to the enactment of an Act of the Parliament of the United Kingdom to give effect to the provisions hereinafter set forth and the Senate and the House of Commons of Canada in Parliament assembled have submitted an address to Her Majesty requesting that Her Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose.

Sa Très Excellente Majesté la Reine, considérant :

qu'à la demande et avec le consentement du Canada, le Parlement du Royaume-Uni est invité à adopter une loi visant à donner effet aux dispositions énoncées ci-après et que le Sénat et la Chambre des communes du Canada réunis en Parlement ont présenté une adresse demandant à Sa Très Gracieuse Majesté de bien vouloir faire déposer devant le Parlement du Royaume-Uni un projet de loi à cette fin,

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

sur l'avis et du consentement des Lords spirituels et temporels et des Communes réunis en Parlement, et par l'autorité de celui-ci, édicte :

1. The *Constitution Act, 1981* set out in Schedule B to this Act is hereby enacted for and shall have the force of law in Canada and shall come into force as provided in that Act.

1. La *Loi constitutionnelle de 1981*, énoncée à l'annexe B, est édictée pour le Canada et y a force de loi. Elle entre en vigueur conformément à ses dispositions.

2. No Act of the Parliament of the United Kingdom passed after the *Constitution Act, 1981* comes into force shall extend to Canada as part of its law.

2. Les lois adoptées par le Parlement du Royaume-Uni après l'entrée en vigueur de la *Loi constitutionnelle de 1981* ne font pas partie du droit du Canada.

3. So far as it is not contained in Schedule B, the French version of this Act is set out in Schedule A to this Act and has the same authority in Canada as the English version thereof.

3. La partie de la version française de la présente loi qui figure à l'annexe A a force de loi au Canada au même titre que la version anglaise correspondante.

4. This Act may be cited as the *Canada Act*.

4. Titre abrégé de la présente loi : *Loi sur le Canada*.

*Constitution Act, 1981* enacted

Adoption de la *Loi constitutionnelle de 1981*

Termination of power to legislate for Canada

Cessation du pouvoir de légiférer pour le Canada

French version

Version française

Short title

Titre abrégé

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## SCHEDULE B

## CONSTITUTION ACT, 1981

## PART I

CANADIAN CHARTER OF RIGHTS AND  
FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

*Guarantee of Rights and Freedoms*

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Rights and freedoms in Canada

*Fundamental Freedoms*

Fundamental freedoms

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; 15
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

*Democratic Rights*

Democratic rights of citizens

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and 20 to be qualified for membership therein.

Maximum duration of legislative bodies

4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its 25 members.

Continuation in special circumstances

(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the 30 legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House

## ANNEXE B

## LOI CONSTITUTIONNELLE DE 1981

## PARTIE I

CHARTRE CANADIENNE DES DROITS ET  
LIBERTÉS

Attendu que le Canada est fondé sur des principes qui reconnaissent la suprématie de Dieu et la primauté du droit :

*Garantie des droits et libertés*

1. La *Charte canadienne des droits et libertés* garantit les droits et libertés qui y 5 sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique. 10

Droits et libertés au Canada

*Libertés fondamentales*

Libertés fondamentales

2. Chacun a les libertés fondamentales suivantes :

- a) liberté de conscience et de religion;
- b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté 15 de la presse et des autres moyens de communication;
- c) liberté de réunion pacifique;
- d) liberté d'association.

*Droits démocratiques*

Droits démocratiques des citoyens

3. Tout citoyen canadien a le droit de vote 20 et est éligible aux élections législatives fédérales ou provinciales.

Mandat maximal des assemblées

4. (1) Le mandat maximal de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date fixée 25 pour le retour des brefs relatifs aux élections générales correspondantes.

Prolongations spéciales

(2) Le mandat de la Chambre des communes ou celui d'une assemblée législative peut être prolongé respectivement par le Parle- 30 ment ou par la législature en question au-delà de cinq ans en cas de guerre, d'invasion ou d'insurrection, réelles ou appréhendées, pourvu que cette prolongation ne fasse pas

of Commons or the legislative assembly, as the case may be.

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l'objet d'une opposition exprimée par les voix de plus du tiers des députés de la Chambre des communes ou de l'assemblée législative.

Annual sitting of legislative bodies

5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

5. Le Parlement et les législatures tiennent une séance au moins une fois tous les 5 douze mois.

Séance annuelle 5

*Mobility Rights*

*Liberté de circulation et d'établissement*

Mobility of citizens

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

6. (1) Tout citoyen canadien a le droit de demeurer au Canada, d'y entrer ou d'en sortir.

Liberté de circulation

Rights to move and gain livelihood

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

(2) Tout citoyen canadien et toute personne ayant le statut de résident permanent au Canada ont le droit :

Liberté d'établissement 10

(a) to move to and take up residence in any province; and

a) de se déplacer dans tout le pays et d'établir leur résidence dans toute province;

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(b) to pursue the gaining of a livelihood in any province.

b) de gagner leur vie dans toute province.

Limitation

(3) The rights specified in subsection (2) are subject to

(3) Les droits mentionnés au paragraphe (2) sont subordonnés :

Restriction 15

(a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and

a) aux lois et usages d'application générale en vigueur dans une province donnée, s'ils n'établissent entre les personnes aucune distinction fondée principalement sur la province de résidence antérieure ou actuelle;

(b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

b) aux lois prévoyant de justes conditions de résidence en vue de l'obtention des services sociaux publics.

Affirmative action programs

(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

(4) Les paragraphes (2) et (3) n'ont pas pour objet d'interdire les lois, programmes ou activités destinés à améliorer, dans une province, la situation d'individus défavorisés socialement ou économiquement, si le taux d'emploi dans la province est inférieur à la moyenne nationale.

Programmes de promotion sociale 30

*Legal Rights*

*Garanties juridiques*

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.

Vie, liberté et sécurité 35

Search or seizure

8. Everyone has the right to be secure against unreasonable search or seizure.

8. Chacun a droit à la protection contre les fouilles, les perquisitions ou les saisies abusives.

Fouilles, perquisitions ou saisies 40

Detention or imprisonment

9. Everyone has the right not to be arbitrarily detained or imprisoned.

9. Chacun a droit à la protection contre la détention ou l'emprisonnement arbitraires.

Détention ou emprisonnement 40

*The Constitution*Arrest or  
detention**10.** Everyone has the right on arrest or detention

(a) to be informed promptly of the reasons therefor;

(b) to retain and instruct counsel without delay and to be informed of that right; and

(c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.**10.** Chacun a le droit, en cas d'arrestation ou de détention :

a) d'être informé dans les plus brefs délais des motifs de son arrestation ou de sa détention;

b) d'avoir recours sans délai à l'assistance d'un avocat et d'être informé de ce droit;

c) de faire contrôler, par *habeas corpus*, la légalité de sa détention et d'obtenir, le cas échéant, sa libération.Arrestation ou  
détentionProceedings in  
criminal and  
penal matters**11.** Any person charged with an offence has the right

(a) to be informed without unreasonable delay of the specific offence;

(b) to be tried within a reasonable time;

(c) not to be compelled to be a witness in proceedings against that person in respect of the offence;

(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

(e) not to be denied reasonable bail without just cause;

(f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;

(g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;

(h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and

(i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

**11.** Tout inculpé a le droit :

a) d'être informé sans délai anormal de l'infraction précise qu'on lui reproche;

b) d'être jugé dans un délai raisonnable;

c) de ne pas être contraint de témoigner 15 contre lui-même dans toute poursuite intentée contre lui pour l'infraction qu'on lui reproche;

d) d'être présumé innocent tant qu'il n'est pas déclaré coupable, conformément à la loi, par un tribunal indépendant et impartial à l'issue d'un procès public et équitable;

e) de ne pas être privé sans juste cause d'une mise en liberté assortie d'un cautionnement raisonnable;

f) sauf s'il s'agit d'une infraction relevant de la justice militaire, de bénéficier d'un procès avec jury lorsque la peine maximale prévue pour l'infraction dont il est accusé est un emprisonnement de cinq ans ou une peine plus grave;

g) de ne pas être déclaré coupable en raison d'une action ou d'une omission qui, au moment où elle est survenue, ne constituait pas une infraction d'après le droit interne du Canada ou le droit international et n'avait pas de caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations;

h) d'une part de ne pas être jugé de nouveau pour une infraction dont il a été définitivement acquitté, d'autre part de ne pas être jugé ni puni de nouveau pour une infraction dont il a été définitivement déclaré coupable et puni;

i) de bénéficier de la peine la moins sévère, lorsque la peine qui sanctionne l'infraction dont il est déclaré coupable est

Affaires  
criminelles et  
pénales

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modifiée entre le moment de la perpétration de l'infraction et celui de la sentence.

Treatment or punishment

12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

12. Chacun a droit à la protection contre tous traitements ou peines cruels et inusités.

Cruauté

Self-crimination

13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

13. Chacun a droit à ce qu'aucun témoignage incriminant qu'il donne ne soit utilisé pour l'incriminer dans d'autres procédures, sauf lors de poursuites pour parjure ou pour témoignages contradictoires.

5 Témoignage incriminant

Interpreter

14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

14. La partie ou le témoin qui ne peuvent suivre les procédures, soit parce qu'ils ne comprennent pas ou ne parlent pas la langue employée, soit parce qu'ils sont atteints de surdit , ont droit   l'assistance d'un interpr te.

10 Interpr te

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*Equality Rights*

*Droits   l' galit *

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

15. (1) La loi ne fait acception de personne et s'applique  galement   tous, et tous ont droit   la m me protection et au m me b n fice de la loi, ind pendamment de toute discrimination, notamment des discriminations fond es sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l' ge ou les d ficiences mentales ou physiques.

 galit  devant la loi,  galit  de b n fice et protection  gale de la loi

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activit s destin s   am liorer la situation d'individus ou de groupes d favoris s, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur  ge ou de leurs d ficiences mentales ou physiques.

25 Programmes de promotion sociale

*Official Languages of Canada*

*Langues officielles du Canada*

Official languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

16. (1) Le fran ais et l'anglais sont les langues officielles du Canada; ils ont un statut et des droits et privil ges  gaux quant   leur usage dans les institutions du Parlement et du gouvernement du Canada.

Langues officielles du Canada

Official languages of New Brunswick

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the

(2) Le fran ais et l'anglais sont les langues officielles du Nouveau-Brunswick; ils ont un statut et des droits et privil ges  gaux quant   leur usage dans les institutions de la L gis-

Langues officielles du Nouveau-Brunswick

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	legislature and government of New Brunswick.	lature et du gouvernement du Nouveau-Brunswick.	
Advancement of status and use	(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.	(3) La présente charte ne limite pas le pouvoir du Parlement et des législatures de favoriser la progression vers l'égalité de statut ou d'usage du français et de l'anglais.	Progression vers l'égalité 5
Proceedings of Parliament	17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.	17. (1) Chacun a le droit d'employer le français ou l'anglais dans les débats et travaux du Parlement.	Travaux du Parlement
Proceedings of New Brunswick legislature	(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.	(2) Chacun a le droit d'employer le français ou l'anglais dans les débats et travaux de la Législature du Nouveau-Brunswick.	Travaux de la Législature du Nouveau-Brunswick 10
Parliamentary statutes and records	18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.	18. (1) Les lois, les archives, les comptes rendus et les procès-verbaux du Parlement sont imprimés et publiés en français et en anglais, les deux versions des lois ayant également force de loi et celles des autres documents ayant même valeur.	Documents parlementaires 15
New Brunswick statutes and records	(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.	(2) Les lois, les archives, les comptes rendus et les procès-verbaux de la Législature du Nouveau-Brunswick sont imprimés et publiés en français et en anglais, les deux versions des lois ayant également force de loi et celles des autres documents ayant même valeur.	Documents de la Législature du Nouveau-Brunswick 20
Proceedings in courts established by Parliament	19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.	19. (1) Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent.	Procédures devant les tribunaux établis par le Parlement 25
Proceedings in New Brunswick courts	(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.	(2) Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux du Nouveau-Brunswick et dans tous les actes de procédure qui en découlent.	Procédures devant les tribunaux du Nouveau-Brunswick 30
Communications by public with federal institutions	20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where (a) there is a significant demand for communications with and services from that office in such language; or	20. (1) Le public a, au Canada, droit à l'emploi du français ou de l'anglais pour communiquer avec le siège ou l'administration centrale des institutions du Parlement ou du gouvernement du Canada ou pour recevoir les services; il a le même droit à l'égard de tout autre bureau de ces institutions là où, selon le cas : a) l'emploi du français ou de l'anglais fait l'objet d'une demande importante; b) l'emploi du français et de l'anglais se justifie par la vocation du bureau.	Communications entre les administrés et les institutions fédérales 35
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			45



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(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

Communica-  
tions by public  
with New  
Brunswick  
institutions

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

(2) Le public a, au Nouveau-Brunswick, droit à l'emploi du français ou de l'anglais pour communiquer avec tout bureau des institutions de la législature ou du gouvernement ou pour en recevoir les services.

Communica-  
tions entre les  
administrés et  
les institutions  
du Nouveau-  
Brunswick

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Continuation of  
existing  
constitutional  
provisions

21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.

21. Les articles 16 à 20 n'ont pas pour effet, en ce qui a trait à la langue française ou anglaise ou à ces deux langues, de porter atteinte aux droits, privilèges ou obligations qui existent ou sont maintenus aux termes d'une autre disposition de la Constitution du Canada.

Maintien en  
vigueur de  
certaines  
dispositions

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Rights and  
privileges  
preserved

22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

22. Les articles 16 à 20 n'ont pas pour effet de porter atteinte aux droits et privilèges, antérieurs ou postérieurs à l'entrée en vigueur de la présente charte et découlant de la loi ou de la coutume, des langues autres que le français ou l'anglais.

Droits préservés

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*Minority Language Educational Rights**Droits à l'instruction dans la langue de la minorité*

Language of  
instruction

23. (1) Citizens of Canada

23. (1) Les citoyens canadiens :

Langue  
d'instruction

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

a) dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de la province où ils résident,

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue dans laquelle ils ont reçu cette instruction est celle de la minorité francophone ou anglophone de la province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

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Continuity of  
language  
instruction

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

Continuité  
d'emploi de la  
langue  
d'instruction

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Application where numbers warrant

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of 10 minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided 15 out of public funds.

(3) Le droit reconnu aux citoyens canadiens par les paragraphes (1) et (2) de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité 5 francophone ou anglophone d'une province :

a) s'exerce partout dans la province où le nombre des enfants des citoyens qui ont ce droit est suffisant pour justifier à leur endroit la prestation, sur les fonds publics, de l'instruction dans la langue de la 10 minorité;

b) comprend, lorsque le nombre de ces enfants le justifie, le droit de les faire instruire dans des établissements d'ensei- 15 gnement de la minorité linguistique finan- cés sur les fonds publics.

Justification par le nombre

*Enforcement*

Enforcement of guaranteed rights and freedoms

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy 20 as the court considers appropriate and just in the circumstances.

Exclusion of evidence bringing administration of justice into disrepute

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or 25 denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration 30 of justice into disrepute.

*Recours*

24. (1) Toute personne, victime de violation ou de négation des droits ou libertés qui lui sont garantis par la présente charte, peut 20 s'adresser à un tribunal compétent pour obtenir la réparation que le tribunal estime convenable et juste eu égard aux circonstances.

(2) Lorsque, dans une instance visée au paragraphe (1), le tribunal a conclu que des 25 éléments de preuve ont été obtenus dans des conditions qui portent atteinte aux droits ou libertés garantis par la présente charte, ces éléments de preuve sont écartés s'il est établi, eu égard aux circonstances, que leur utilisation est susceptible de déconsidérer l'admi- 30 nistration de la justice.

Recours en cas d'atteinte aux droits et libertés

Irrecevabilité d'éléments de preuve qui risqueraient de déconsidérer l'administration de la justice

*General*

Aboriginal rights and freedoms not affected by Charter

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms 35 that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and 40

(b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.

*Dispositions générales*

25. Le fait que la présente charte garantit certains droits et libertés ne porte pas atteinte aux droits ou libertés — ancestraux, 35 issus de traités ou autres — des peuples autochtones du Canada, notamment :

a) aux droits ou libertés reconnus par la Proclamation royale du 7 octobre 1763;

b) aux droits ou libertés acquis par règle- 40 ment de revendications territoriales.

Maintien des droits et libertés des autochtones

Other rights and freedoms not affected by Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be con- 45

26. Le fait que la présente charte garantit certains droits et libertés ne constitue pas

Maintien des autres droits et libertés

*The Constitution*

strued as denying the existence of any other rights or freedoms that exist in Canada.

une négation des autres droits ou libertés qui existent au Canada.

Multicultural heritage

27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

27. Toute interprétation de la présente charte doit concorder avec l'objectif de promouvoir le maintien et la valorisation du patrimoine multiculturel des Canadiens.

Maintien du patrimoine culturel

Rights guaranteed equally to both sexes

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

28. Indépendamment des autres dispositions de la présente charte, les droits et libertés qui y sont mentionnés sont garantis également aux personnes des deux sexes.

Égalité de garantie des droits pour les deux sexes

Rights respecting certain schools preserved

29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

29. Les dispositions de la présente charte ne portent pas atteinte aux droits ou privilèges garantis en vertu de la Constitution du Canada concernant les écoles séparées et autres écoles confessionnelles.

Maintien des droits relatifs à certaines écoles

Application to territories and territorial authorities

30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

30. Dans la présente charte, les dispositions qui visent les provinces, leur législature ou leur assemblée législative visent également le territoire du Yukon, les territoires du Nord-Ouest ou leurs autorités législatives compétentes.

Application aux territoires

Legislative powers not extended

31. Nothing in this Charter extends the legislative powers of any body or authority.

31. La présente charte n'élargit pas les compétences législatives de quelque organisme ou autorité que ce soit.

Non-élargissement des compétences législatives

*Application of Charter*

*Application de la charte*

Application of Charter

32. (1) This Charter applies  
(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and  
(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

32. (1) La présente charte s'applique :  
a) au Parlement et au gouvernement du Canada, pour tous les domaines relevant du Parlement, y compris ceux qui concernent le territoire du Yukon et les territoires du Nord-Ouest;  
b) à la législature et au gouvernement de chaque province, pour tous les domaines relevant de cette législature.

Application de la charte

Exception

(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

(2) Par dérogation au paragraphe (1), l'article 15 n'a d'effet que trois ans après l'entrée en vigueur du présent article.

Restriction

Exception where express declaration

33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

33. (1) Le Parlement ou la législature d'une province peut adopter une loi où il est expressément déclaré que celle-ci ou une de ses dispositions a effet indépendamment d'une disposition donnée de l'article 2 ou des articles 7 à 15 de la présente charte.

Dérogation par déclaration expresse

*The Constitution*

Operation of exception	(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.	5	(2) La loi ou la disposition qui fait l'objet d'une déclaration conforme au présent article et en vigueur a l'effet qu'elle aurait sauf la disposition en cause de la charte.	Effet de la dérogation
Five year limitation	(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.		(3) La déclaration visée au paragraphe (1) cesse d'avoir effet à la date qui y est précisée ou, au plus tard, cinq ans après son entrée en vigueur.	5 Durée de validité
Re-enactment	(4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).	10	(4) Le Parlement ou une législature peut adopter de nouveau une déclaration visée au 10 paragraphe (1).	Nouvelle adoption
Five year limitation	(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).		(5) Le paragraphe (3) s'applique à toute déclaration adoptée sous le régime du paragraphe (4).	Durée de validité

*Citation*

*Titre*

Citation	34. This Part may be cited as the <i>Canadian Charter of Rights and Freedoms</i> .	15	34. Titre de la présente partie: <i>Charte canadienne des droits et libertés</i> .	Titre
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PART II

PARTIE II

EQUALIZATION AND REGIONAL DISPARITIES

PÉRÉQUATION ET INÉGALITÉS RÉGIONALES

Commitment to promote equal opportunities	35. (1) Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to (a) promoting equal opportunities for the well-being of Canadians; (b) furthering economic development to reduce disparity in opportunities; and (c) providing essential public services of reasonable quality to all Canadians.	20 25	35. (1) Sous réserve des compétences législatives du Parlement et des législatures et de leur droit de les exercer, le Parlement et les législatures, ainsi que les gouvernements fédéral et provinciaux, s'engagent à : a) promouvoir l'égalité des chances de tous les Canadiens dans la recherche de leur bien-être; b) favoriser le développement économique pour réduire l'inégalité des chances; c) fournir à tous les Canadiens, à un niveau de qualité acceptable, les services publics essentiels.	20 25 Engagements relatifs à l'égalité des chances
Commitment respecting public services	(2) Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.	30 35	(2) Le Parlement et le gouvernement du Canada prennent l'engagement de principe de faire des paiements de péréquation propres à donner aux gouvernements provinciaux des revenus suffisants pour les mettre en mesure d'assurer les services publics à un niveau de qualité et de fiscalité sensiblement comparables.	30 Engagement relatif aux services publics

*The Constitution*

## PART III

## PARTIE III

## CONSTITUTIONAL CONFERENCE

## CONFÉRENCE CONSTITUTIONNELLE

Constitutional conference

36. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within one year after this Part comes into force.

36. (1) Dans l'année suivant l'entrée en vigueur de la présente partie, le premier ministre du Canada convoque une conférence constitutionnelle réunissant les premiers 5 ministres provinciaux et lui-même. 5

Conférence constitutionnelle

Participation of aboriginal peoples

(2) The conference convened under subsection (1) shall have included in its agenda an item respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

(2) Sont placées à l'ordre du jour de la conférence visée au paragraphe (1) les questions constitutionnelles qui intéressent directement les peuples autochtones du Canada, notamment la détermination et la définition 10 des droits de ces peuples à inscrire dans la Constitution du Canada. Le premier ministre du Canada invite leurs représentants à participer aux travaux relatifs à ces questions. 10

Participation des peuples autochtones

Participation of territories

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of the conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories. 25

(3) Le premier ministre du Canada invite 15 des représentants élus des gouvernements du territoire du Yukon et des territoires du Nord-Ouest à participer aux travaux relatifs à toute question placée à l'ordre du jour de la conférence visée au paragraphe (1) et qui, 20 selon lui, intéresse directement le territoire du Yukon et les territoires du Nord-Ouest. 20

Participation des territoires

## PART IV

## PARTIE IV

## PROCEDURE FOR AMENDING CONSTITUTION OF CANADA

## PROCÉDURE DE MODIFICATION DE LA CONSTITUTION DU CANADA

General procedure for amending Constitution of Canada

37. (1) An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by 30

37. (1) La Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du Canada, 25 autorisée à la fois :

Procédure normale de modification

(a) resolutions of the Senate and House of Commons; and

a) par des résolutions du Sénat et de la Chambre des communes;

(b) resolutions of the legislative assemblies of at least two-thirds of the provinces that have, in the aggregate, according to 35 the then latest general census, at least fifty per cent of the population of all the provinces.

b) par des résolutions des assemblées législatives d'au moins deux tiers des provinces dont la population confondue présente, selon le recensement général le plus récent à l'époque, au moins cinquante pour cent de la population de toutes les provinces. 35

Majority of members

(2) An amendment made under subsection (1) that derogates from the legislative 40 powers, the proprietary rights or any other rights or privileges of the legislature or gov-

(2) Une modification faite conformément au paragraphe (1) mais dérogatoire à la compétence législative, aux droits de propriété ou à tous autres droits ou privilèges

Majorité simple

*The Constitution*

ernment of a province shall require a resolution supported by a majority of the members of each of the Senate, the House of Commons and the legislative assemblies required under subsection (1).

d'une législature ou d'un gouvernement provincial exige une résolution adoptée à la majorité des sénateurs, des députés fédéraux et des députés de chacune des assemblées 5 législatives du nombre requis de provinces.

Expression of dissent

(3) An amendment referred to in subsection (2) shall not have effect in a province the legislative assembly of which has expressed its dissent thereto by resolution supported by a majority of its members prior to the issue of the proclamation to which the amendment relates unless that legislative assembly, subsequently, by resolution supported by a majority of its members, revokes its dissent and authorizes the amendment. 15

(3) La modification visée au paragraphe (2) est sans effet dans une province dont l'assemblée législative a, avant la prise de la proclamation, exprimé son désaccord par une résolution adoptée à la majorité des députés, 10 sauf si cette assemblée, par résolution également adoptée à la majorité, revient sur son désaccord et autorise la modification.

Désaccord

Revocation of dissent

(4) A resolution of dissent made for the purposes of subsection (3) may be revoked at any time before or after the issue of the proclamation to which it relates.

(4) La résolution de désaccord visée au paragraphe (3) peut être révoquée à tout 15 moment, indépendamment de la date de la proclamation à laquelle elle se rapporte.

Levée du désaccord

Restriction on proclamation

38. (1) A proclamation shall not be issued under subsection 37(1) before the expiration of one year from the adoption of the resolution initiating the amendment procedure thereunder, unless the legislative assembly of each province has previously adopted a resolution of assent or dissent. 20

38. (1) La proclamation visée au paragraphe 37(1) ne peut être prise dans l'année suivant l'adoption de la résolution à l'origine 20 de la procédure de modification que si l'assemblée législative de chaque province a préalablement adopté une résolution d'agrément ou de désaccord.

Restriction

Idem

(2) A proclamation shall not be issued under subsection 37(1) after the expiration of three years from the adoption of the resolution initiating the amendment procedure thereunder. 30

(2) La proclamation visée au paragraphe 37(1) ne peut être prise que dans les trois ans suivant l'adoption de la résolution à l'origine 25 de la procédure de modification.

Idem

Compensation

39. Where an amendment is made under subsection 37(1) that transfers provincial legislative powers relating to education or other cultural matters from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply. 35

39. Le Canada fournit une juste compensation aux provinces auxquelles ne s'applique 30 pas une modification faite conformément au paragraphe 37(1) et relative, en matière d'éducation ou dans d'autres domaines culturels, à un transfert de compétences législatives provinciales au Parlement. 35

Compensation

Amendment by unanimous consent

40. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province: 40

40. Toute modification de la Constitution du Canada portant sur les questions suivantes se fait par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la 40 Chambre des communes et de l'assemblée législative de chaque province :

Consentement unanime

(a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

a) la charge de Reine, celle de gouverneur général et celle de lieutenant-gouverneur;

*The Constitution*

- (b) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province is entitled to be represented at the time this Part comes into force; 5
- (c) subject to section 42, the use of the English or the French language;
- (d) the composition of the Supreme Court of Canada; and
- (e) an amendment to this Part. 10

- b) le droit d'une province d'avoir à la Chambre des communes un nombre de députés au moins égal à celui des sénateurs par lesquels elle est habilitée à être représentée lors de l'entrée en vigueur de la présente partie; 5
- c) sous réserve de l'article 42, l'usage du français ou de l'anglais;
- d) la composition de la Cour suprême du Canada; 10
- e) la modification de la présente partie.

**41.** (1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 37(1):

- (a) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada; 15
- (b) the powers of the Senate and the method of selecting Senators; 20
- (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
- (d) subject to paragraph 40(d), the Supreme Court of Canada; 25
- (e) the extension of existing provinces into the territories; and
- (f) notwithstanding any other law or practice, the establishment of new provinces. 30

**41.** (1) Toute modification de la Constitution du Canada portant sur les questions suivantes se fait conformément au paragraphe 37(1): 15

- a) le principe de la représentation proportionnelle des provinces à la Chambre des communes prévu par la Constitution du Canada;
- b) les pouvoirs du Sénat et le mode de sélection des sénateurs; 20
- c) le nombre des sénateurs par lesquels une province est habilitée à être représentée et les conditions de résidence qu'ils doivent remplir; 25
- d) sous réserve de l'alinéa 40d), la Cour suprême du Canada;
- e) le rattachement aux provinces existantes de tout ou partie des territoires;
- f) par dérogation à toute autre loi ou usage, la création de provinces. 30

(2) Subsections 37(2) to (4) do not apply in respect of amendments in relation to matters referred to in subsection (1).

(2) Les paragraphes 37(2) à (4) ne s'appliquent pas aux questions mentionnées au paragraphe (1).

**42.** An amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces, including

- (a) any alteration to boundaries between provinces, and
- (b) any amendment to any provision that relates to the use of the English or the French language within a province,

may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons

**42.** Les dispositions de la Constitution du Canada applicables à certaines provinces seulement ne peuvent être modifiées que par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de chaque province concernée. Le présent article s'applique notamment :

- a) aux changements du tracé des frontières interprovinciales; 35
- b) aux modifications des dispositions relatives à l'usage du français ou de l'anglais dans une province. 40

Amendment by general procedure

Procédure normale de modification

Exception

Exception

Amendment of provisions relating to some but not all provinces

Modification à l'égard de certaines provinces

*The Constitution*

and of the legislative assembly of each province to which the amendment applies.

Amendments  
by Parliament

**43.** Subject to sections 40 and 41, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

**43.** Sous réserve des articles 40 et 41, le Parlement a compétence exclusive pour modifier les dispositions de la Constitution du Canada relatives au pouvoir exécutif fédéral, au Sénat ou à la Chambre des communes.

Modification  
par le  
Parlement

5

Amendments  
by provincial  
legislatures

**44.** Subject to section 40, the legislature of each province may exclusively make laws amending the constitution of the province.

**44.** Sous réserve de l'article 40, une législature a compétence exclusive pour modifier la constitution de sa province.

Modification  
par les  
législatures

10

Initiation of  
amendment  
procedures

**45.** (1) The procedures for amendment under sections 37, 40, 41 and 42 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province.

**45.** (1) L'initiative des procédures de modification visées aux articles 37, 40, 41 et 42 appartient au Sénat, à la Chambre des communes ou à une assemblée législative.

Initiative des  
procédures

15

Revocation of  
authorization

(2) A resolution of assent made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

(2) Une résolution d'agrément adoptée dans le cadre de la présente partie peut être révoquée à tout moment avant la date de la proclamation qu'elle autorise.

Possibilité de  
révocation

15

Amendments  
without Senate  
resolution

**46.** (1) An amendment to the Constitution of Canada made by proclamation under section 37, 40, 41 or 42 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution.

**46.** (1) Dans les cas visés à l'article 37, 40, 41 ou 42, il peut être passé outre au défaut d'autorisation du Sénat si celui-ci n'a pas adopté de résolution dans un délai de cent quatre-vingts jours suivant l'adoption de celle de la Chambre des communes et si cette dernière, après l'expiration du délai, adopte une nouvelle résolution dans le même sens.

Modification  
sans résolution  
du Sénat

25

30

Computation of  
period

(2) Any period when Parliament is prorogued or dissolved shall not be counted in computing the one hundred and eighty day period referred to in subsection (1).

(2) Dans la computation du délai visé au paragraphe (1), ne sont pas comptées les périodes pendant lesquelles le Parlement est prorogé ou dissous.

Computation  
du délai

30

Advice to issue  
proclamation

**47.** The Queen's Privy Council for Canada shall advise the Governor General to issue a proclamation under this Part forthwith on the adoption of the resolutions required for an amendment made by proclamation under this Part.

**47.** Le Conseil privé de la Reine pour le Canada demande au gouverneur général de prendre, conformément à la présente partie, une proclamation dès l'adoption des résolutions prévues par cette partie pour une modification par proclamation.

Demande de  
proclamation

35

40

Constitutional  
conference

**48.** A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within fifteen years after this Part comes into force to review the provisions of this Part.

**48.** Dans les quinze ans suivant l'entrée en vigueur de la présente partie, le premier ministre du Canada convoque une conférence constitutionnelle réunissant les premiers ministres provinciaux et lui-même, en vue du réexamen des dispositions de cette partie.

Conférence  
constitution-  
nelle

45

40



## PART V

AMENDMENT TO THE CONSTITUTION ACT,  
1867Amendment to  
Constitution  
Act, 1867

49. The *Constitution Act, 1867* (formerly named the *British North America Act, 1867*) is amended by adding thereto, immediately after section 92 thereof, the following heading and section:

*“Non-Renewable Natural Resources,  
Forestry Resources and Electrical Energy*

92A. (1) In each province, the legislature may exclusively make laws in relation to

- (a) exploration for non-renewable natural resources in the province; 10
- (b) development, conservation and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom; and 15
- (c) development, conservation and management of sites and facilities in the province for the generation and production of electrical energy. 20

(2) In each province, the legislature may make laws in relation to the export from the province to another part of Canada of the primary production from non-renewable natural resources and forestry resources in the province and the production from facilities in the province for the generation of electrical energy, but such laws may not authorize or provide for discrimination in prices or in supplies exported to another part of Canada. 25 30

(3) Nothing in subsection (2) derogates from the authority of Parliament to enact laws in relation to the matters referred to in that subsection and, where such a law of Parliament and a law of a province conflict, the law of Parliament prevails to the extent of the conflict. 35

Laws respecting  
non-renewable  
natural  
resources,  
forestry  
resources and  
electrical  
energyExport from  
provinces of  
resourcesAuthority of  
ParliamentThe Constitution  
PARTIE VMODIFICATION DE LA LOI  
CONSTITUTIONNELLE DE 1867

49. La *Loi constitutionnelle de 1867* (antérieurement désignée sous le titre : *Acte de l'Amérique du Nord britannique, 1867*) est modifiée par insertion, après l'article 92, 5 de la rubrique et de l'article suivants :

*«Ressources naturelles non renouvelables,  
ressources forestières et énergie électrique*

92A. (1) La législature de chaque province a compétence exclusive pour légiférer dans les domaines suivants : 10

- a) prospection des ressources naturelles non renouvelables de la province;
- b) exploitation, conservation et gestion des ressources naturelles non renouvelables et des ressources forestières de la province, y compris leur rythme de production primaire; 15
- c) aménagement, conservation et gestion des emplacements et des installations de la province destinés à la production d'énergie électrique. 20

(2) La législature de chaque province a compétence pour légiférer en ce qui concerne l'exportation, hors de la province, à destination d'une autre partie du Canada, de la production primaire tirée des ressources naturelles non renouvelables et des ressources forestières de la province, ainsi que de la production d'énergie électrique de la province, sous réserve de ne pas adopter de lois autorisant ou prévoyant des disparités de prix ou des disparités dans les exportations destinées à une autre partie du Canada. 25 30

(3) Le paragraphe (2) ne porte pas atteinte au pouvoir du Parlement de légiférer dans les domaines visés à ce paragraphe, les dispositions d'une loi du Parlement adoptée dans ces domaines l'emportant sur les dispositions incompatibles d'une loi provinciale. 35 40

Modification de  
la Loi  
constitution-  
nelle de 1867Compétence  
provincialeExportation  
hors des  
provincesPouvoir du  
Parlement

*The Constitution*Taxation of  
resources

(4) In each province, the legislature may make laws in relation to the raising of money by any mode or system of taxation in respect of

(a) non-renewable natural resources and forestry resources in the province and the primary production therefrom, and

(b) sites and facilities in the province for the generation of electrical energy and the production therefrom,

whether or not such production is exported in whole or in part from the province, but such laws may not authorize or provide for taxation that differentiates between production exported to another part of Canada and production not exported from the province.

"Primary  
production"

(5) The expression "primary production" has the meaning assigned by the Sixth Schedule.

Existing powers  
or rights

(6) Nothing in subsections (1) to (5) derogates from any powers or rights that a legislature or government of a province had immediately before the coming into force of this section."

Idem

50. The said Act is further amended by adding thereto the following Schedule:

## "THE SIXTH SCHEDULE

*Primary Production from Non-Renewable Natural Resources and Forestry Resources*

1. For the purposes of section 92A of this Act,

(a) production from a non-renewable natural resource is primary production therefrom if

(i) it is in the form in which it exists upon its recovery or severance from its natural state, or

(4) La législature de chaque province a compétence pour prélever des sommes d'argent par tout mode ou système de taxation :

a) des ressources naturelles non renouvelables et des ressources forestières de la province, ainsi que de la production primaire qui en est tirée;

b) des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production même.

Cette compétence peut s'exercer indépendamment du fait que la production en cause soit ou non, en totalité ou en partie, exportée hors de la province, mais les lois adoptées dans ces domaines ne peuvent autoriser ou prévoir une taxation qui établisse une distinction entre la production exportée à destination d'une autre partie du Canada et la production non exportée hors de la province.

(5) L'expression «production primaire» a le sens qui lui est donné dans la sixième annexe.

(6) Les paragraphes (1) à (5) ne portent pas atteinte aux pouvoirs ou droits détenus par la législature ou le gouvernement d'une province lors de l'entrée en vigueur du présent article.»

50. Ladite loi est en outre modifiée par adjonction de l'annexe suivante :

## «SIXIÈME ANNEXE

*Production primaire tirée des ressources naturelles non renouvelables et des ressources forestières*

1. Pour l'application de l'article 92A :

a) on entend par production primaire tirée d'une ressource naturelle non renouvelable :

(i) soit le produit qui se présente sous la même forme que lors de son extraction du milieu naturel,

(ii) soit le produit non manufacturé de la transformation, du raffinage ou de

Taxation des  
ressources«Production  
primaire»Pouvoirs ou  
droits existants

Idem

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(ii) it is a product resulting from processing or refining the resource, and is not a manufactured product or a product resulting from refining crude oil, refining upgraded heavy crude oil, refining gases or liquids derived from coal or refining a synthetic equivalent of crude oil; and

(b) production from a forestry resource is primary production therefrom if it consists of sawlogs, poles, lumber, wood chips, sawdust or any other primary wood product, or wood pulp, and is not a product manufactured from wood.”

l'affinage d'une ressource, à l'exception du produit du raffinage du pétrole brut, du raffinage du pétrole brut lourd amélioré, du raffinage des gaz ou des liquides dérivés du charbon ou du raffinage d'un équivalent synthétique du pétrole brut;

b) on entend par production primaire tirée d'une ressource forestière la production constituée de billots, de poteaux, de bois d'œuvre, de copeaux, de sciure ou d'autre produit primaire du bois, ou de pâte de bois, à l'exception d'un produit manufacturé en bois.»

PART VI

PARTIE VI

GENERAL

DISPOSITIONS GÉNÉRALES

Primacy of Constitution of Canada

51. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

51. (1) La Constitution du Canada est la loi suprême du Canada; elle rend inopérantes les dispositions incompatibles de toute autre règle de droit.

Primauté de la Constitution du Canada

Constitution of Canada

(2) The Constitution of Canada includes (a) the *Canada Act*, including this Act; (b) the Acts and orders referred to in Schedule I; and (c) any amendment to any Act or order referred to in paragraph (a) or (b).

(2) La Constitution du Canada comprend : a) la *Loi sur le Canada*, y compris la présente loi; b) les textes législatifs et les décrets figurant à l'annexe I; c) les modifications des textes législatifs et des décrets mentionnés aux alinéas a) ou b).

Constitution du Canada

Amendments to Constitution of Canada

(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.

(3) La Constitution du Canada ne peut être modifiée que conformément aux pouvoirs conférés par elle.

Modification

Repeals and new names

52. (1) The enactments referred to in Column I of Schedule I are hereby repealed or amended to the extent indicated in Column II thereof and, unless repealed, shall continue as law in Canada under the names set out in Column III thereof.

52. (1) Les textes législatifs et les décrets énumérés à la colonne I de l'annexe I sont abrogés ou modifiés dans la mesure indiquée à la colonne II. Sauf abrogation, ils restent en vigueur en tant que lois du Canada sous les titres mentionnés à la colonne III.

Abrogation et nouveaux titres

Consequential amendments

(2) Every enactment, except the *Canada Act*, that refers to an enactment referred to in Schedule I by the name in Column I thereof is hereby amended by substituting for that name the corresponding name in Column III thereof, and any British North America Act not referred to in Schedule I may be cited as the *Constitution Act* fol-

(2) Tout texte législatif ou réglementaire, sauf la *Loi sur le Canada*, qui fait mention d'un texte législatif ou décret figurant à l'annexe I par le titre indiqué à la colonne I est modifié par substitution à ce titre du titre correspondant mentionné à la colonne III; tout Acte de l'Amérique du Nord britannique non mentionné à l'annexe I peut être cité sous le titre de *Loi constitutionnelle* suivi de

Modifications corrélatives

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lowed by the year and number, if any, of its enactment.

l'indication de l'année de son adoption et éventuellement de son numéro.

Repeal and consequential amendments

53. Part III is repealed on the day that is one year after this Part comes into force and this section may be repealed and this Act renumbered, consequential upon the repeal of Part III and this section, by proclamation issued by the Governor General under the Great Seal of Canada.

53. La partie III est abrogée un an après l'entrée en vigueur de la présente partie et le gouverneur général peut, par proclamation sous le grand sceau du Canada, abroger le présent article et apporter en conséquence de cette double abrogation les aménagements qui s'imposent à la présente loi.

Abrogation et modifications qui en découlent

French version of Constitution of Canada

54. A French version of the portions of the Constitution of Canada referred to in Schedule I shall be prepared by the Minister of Justice of Canada as expeditiously as possible and, when any portion thereof sufficient to warrant action being taken has been so prepared, it shall be put forward for enactment by proclamation issued by the Governor General under the Great Seal of Canada pursuant to the procedure then applicable to an amendment of the same provisions of the Constitution of Canada.

54. Le ministre de la Justice du Canada est chargé de rédiger, dans les meilleurs délais, la version française des parties de la Constitution du Canada qui figurent à l'annexe I; toute partie suffisamment importante est, dès qu'elle est prête, déposée pour adoption par proclamation du gouverneur général sous le grand sceau du Canada, conformément à la procédure applicable à l'époque à la modification des dispositions constitutionnelles qu'elle contient.

Version française de certains textes constitutionnels

English and French versions of certain constitutional texts

55. Where any portion of the Constitution of Canada has been or is enacted in English and French or where a French version of any portion of the Constitution is enacted pursuant to section 54, the English and French versions of that portion of the Constitution are equally authoritative.

55. Les versions française et anglaise des parties de la Constitution du Canada adoptées dans ces deux langues ont également force de loi. En outre, ont également force de loi, dès l'adoption, dans le cadre de l'article 54, d'une partie de la version française de la Constitution, cette partie et la version anglaise correspondante.

Versions française et anglaise de certains textes constitutionnels

English and French versions of this Act

56. The English and French versions of this Act are equally authoritative.

56. Les versions française et anglaise de la présente loi ont également force de loi.

Versions française et anglaise de la présente loi

Commencement

57. Subject to section 58, this Act shall come into force on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

57. Sous réserve de l'article 58, la présente loi entre en vigueur à la date fixée par proclamation de la Reine ou du gouverneur général sous le grand sceau du Canada.

Entrée en vigueur

Commencement of paragraph 23(1)(a) in respect of Quebec

58. (1) Paragraph 23(1)(a) shall come into force in respect of Quebec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

58. (1) L'alinéa 23(1)a) entre en vigueur pour le Québec à la date fixée par proclamation de la Reine ou du gouverneur général sous le grand sceau du Canada.

Entrée en vigueur de l'alinéa 23(1)a) pour le Québec

Authorization of Quebec

(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Quebec.

(2) La proclamation visée au paragraphe (1) ne peut être prise qu'après autorisation de l'assemblée législative ou du gouvernement du Québec.

Autorisation du Québec

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Repeal of this section

(3) This section may be repealed on the day paragraph 23(1)(a) comes into force in respect of Quebec and this Act amended and renumbered, consequential upon the repeal of this section, by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

(3) Le présent article peut être abrogé à la date d'entrée en vigueur de l'alinéa 23(1)a) pour le Québec, et la présente loi faire l'objet, dès cette abrogation, des modifications et changements de numérotation qui en découlent, par proclamation de la Reine ou du gouverneur général sous le grand sceau du Canada.

Abrogation du présent article

Short title and citations

59. This Act may be cited as the *Constitution Act, 1981*, and the Constitution Acts 1867 to 1975 (No. 2) and this Act may be cited together as the *Constitution Acts, 1867 to 1981*.

59. Titre abrégé de la présente annexe : *Loi constitutionnelle de 1981*; titre commun des lois constitutionnelles de 1867 à 1975 (n° 2) et de la présente loi : *Lois constitutionnelles de 1867 à 1981*.

Titres

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## SCHEDULE I

to the

## CONSTITUTION ACT, 1981

## MODERNIZATION OF THE CONSTITUTION

Item	Column I Act Affected	Column II Amendment	Column III New Name
1.	British North America Act, 1867, 30-31 Vict., c. 3 (U.K.)	(1) Section 1 is repealed and the following substituted therefor: "1. This Act may be cited as the <i>Constitution Act, 1867.</i> " (2) Section 20 is repealed. (3) Class 1 of section 91 is repealed. (4) Class 1 of section 92 is repealed.	Constitution Act, 1867
2.	An Act to amend and continue the Act 32-33 Victoria chapter 3; and to establish and provide for the Government of the Province of Manitoba, 1870, 33 Vict., c. 3 (Can.)	(1) The long title is repealed and the following substituted therefor: " <i>Manitoba Act, 1870.</i> " (2) Section 20 is repealed.	Manitoba Act, 1870
3.	Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the union, dated the 23rd day of June, 1870		Rupert's Land and North-Western Territory Order
4.	Order of Her Majesty in Council admitting British Columbia into the Union, dated the 16th day of May, 1871		British Columbia Terms of Union
5.	British North America Act, 1871, 34-35 Vict., c. 28 (U.K.)	Section 1 is repealed and the following substituted therefor: "1. This Act may be cited as the <i>Constitution Act, 1871.</i> "	Constitution Act, 1871
6.	Order of Her Majesty in Council admitting Prince Edward Island into the Union, dated the 26th day of June, 1873		Prince Edward Island Terms of Union
7.	Parliament of Canada Act, 1875, 38-39 Vict., c. 38 (U.K.)		Parliament of Canada Act, 1875
8.	Order of Her Majesty in Council admitting all British possessions and Territories in North America and islands adjacent thereto into the Union, dated the 31st day of July, 1880		Adjacent Territories Order

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## ANNEXE I

LOI CONSTITUTIONNELLE DE 1981  
ACTUALISATION DE LA CONSTITUTION

Colonne I Loi visée	Colonne II Modification	Colonne III Nouveau titre
1. Acte de l'Amérique du Nord britannique, 1867, 30-31 Vict., c. 3 (R.-U.)	(1) L'article 1 est abrogé et remplacé par ce qui suit : «1. Titre abrégé : <i>Loi constitutionnelle de 1867.</i> » (2) L'article 20 est abrogé. (3) La catégorie 1 de l'article 91 est abrogée. (4) La catégorie 1 de l'article 92 est abrogée.	Loi constitutionnelle de 1867
2. Acte pour amender et continuer l'acte trente-deux et trente-trois Victoria, chapitre trois, et pour établir et constituer le gouvernement de la province de Manitoba, 1870, 33 Vict., c. 3 (Canada)	(1) Le titre complet est abrogé et remplacé par ce qui suit : « <i>Loi de 1870 sur le Manitoba.</i> » (2) L'article 20 est abrogé.	Loi de 1870 sur le Manitoba
3. Arrêté en conseil de Sa Majesté admettant la Terre de Rupert et le Territoire du Nord-Ouest, en date du 23 juin 1870		Décret en conseil sur la terre de Rupert et le territoire du Nord-Ouest
4. Arrêté en conseil de Sa Majesté admettant la Colombie-Britannique, en date du 16 mai 1871		Conditions de l'adhésion de la Colombie-Britannique
5. Acte de l'Amérique du Nord britannique, 1871, 34-35 Vict., c. 28 (R.-U.)	L'article 1 est abrogé et remplacé par ce qui suit : «1. Titre abrégé : <i>Loi constitutionnelle de 1871.</i> »	Loi constitutionnelle de 1871
6. Arrêté en conseil de Sa Majesté admettant l'Île-du-Prince-Édouard, en date du 26 juin 1873		Conditions de l'adhésion de l'Île-du-Prince-Édouard
7. Acte du Parlement du Canada, 1875, 38-39 Vict., c. 38 (R.-U.)		Loi de 1875 sur le Parlement du Canada
8. Arrêté en conseil de Sa Majesté admettant dans l'Union tous les territoires et possessions britanniques dans l'Amérique du Nord, et les îles adjacentes à ces territoires et possessions, en date du 31 juillet 1880		Décret en conseil sur les territoires adjacents

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## SCHEDULE I

to the

CONSTITUTION ACT, 1981—*Continued*

Item	Column I Act Affected	Column II Amendment	Column III New Name
9.	British North America Act, 1886, 49-50 Vict., c. 35 (U.K.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the <i>Constitution Act, 1886.</i> "	Constitution Act, 1886
10.	Canada (Ontario Boundary) Act, 1889, 52-53 Vict., c. 28 (U.K.)		Canada (Ontario Boundary) Act, 1889
11.	Canadian Speaker (Appointment of Deputy) Act, 1895, 2nd Sess., 59 Vict., c. 3 (U.K.)	The Act is repealed.	
12.	The Alberta Act, 1905, 4-5 Edw. VII, c. 3 (Can.)		Alberta Act
13.	The Saskatchewan Act, 1905, 4-5 Edw. VII, c. 42 (Can.)		Saskatchewan Act
14.	British North America Act, 1907, 7 Edw. VII, c. 11 (U.K.)	Section 2 is repealed and the following substituted therefor: "2. This Act may be cited as the <i>Constitution Act, 1907.</i> "	Constitution Act, 1907
15.	British North America Act, 1915, 5-6 Geo. V, c. 45 (U.K.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the <i>Constitution Act, 1915.</i> "	Constitution Act, 1915
16.	British North America Act, 1930, 20-21 Geo. V, c. 26 (U.K.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the <i>Constitution Act, 1930.</i> "	Constitution Act, 1930
17.	Statute of Westminster, 1931, 22 Geo. V, c. 4 (U.K.)	In so far as they apply to Canada, (a) section 4 is repealed; and (b) subsection 7(1) is repealed.	Statute of Westminster, 1931
18.	British North America Act, 1940, 3-4 Geo. VI, c. 36 (U.K.)	Section 2 is repealed and the following substituted therefor: "2. This Act may be cited as the <i>Constitution Act, 1940.</i> "	Constitution Act, 1940
19.	British North America Act, 1943, 6-7 Geo. VI, c. 30 (U.K.)	The Act is repealed.	



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## ANNEXE I (suite)

## LOI CONSTITUTIONNELLE DE 1981

Colonne I Loi visée	Colonne II Modification	Colonne III Nouveau titre
9. Acte de l'Amérique du Nord britannique, 1886, 49-50 Vict., c. 35 (R.-U.)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : <i>Loi constitutionnelle de 1886.</i> »	Loi constitutionnelle de 1886
10. Acte du Canada (limites d'Ontario) 1889, 52-53 Vict., c. 28 (R.-U.)		Loi de 1889 sur le Canada (frontières de l'Ontario)
11. Acte concernant l'Orateur canadien (nomination d'un suppléant) 1895, 2 <sup>e</sup> session, 59 Vict., c. 3 (R.-U.)	La loi est abrogée.	
12. Acte de l'Alberta, 1905, 4-5 Ed. VII, c. 3 (Canada)		Loi sur l'Alberta
13. Acte de la Saskatchewan, 1905, 4-5 Ed. VII, c. 42 (Canada)		Loi sur la Saskatchewan
14. Acte de l'Amérique du Nord britannique, 1907, 7 Ed. VII, c. 11 (R.-U.)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé : <i>Loi constitutionnelle de 1907.</i> »	Loi constitutionnelle de 1907
15. Acte de l'Amérique du Nord britannique, 1915, 5-6 Geo. V, c. 45 (R.-U.)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : <i>Loi constitutionnelle de 1915.</i> »	Loi constitutionnelle de 1915
16. Acte de l'Amérique du Nord britannique, 1930, 20-21 Geo. V, c. 26 (R.-U.)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : <i>Loi constitutionnelle de 1930.</i> »	Loi constitutionnelle de 1930
17. Statut de Westminster, 1931, 22 Geo. V, c. 4 (R.-U.)	Dans la mesure où ils s'appliquent au Canada : a) l'article 4 est abrogé; b) le paragraphe 7(1) est abrogé.	Statut de Westminster de 1931
18. Acte de l'Amérique du Nord britannique, 1940, 3-4 Geo. VI, c. 36 (R.-U.)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé : <i>Loi constitutionnelle de 1940.</i> »	Loi constitutionnelle de 1940
19. Acte de l'Amérique du Nord britannique, 1943, 6-7 Geo. VI, c. 30 (R.-U.)	La loi est abrogée.	

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SCHEDULE I  
to the  
CONSTITUTION ACT, 1981—*Continued*

Item	Column I Act Affected	Column II Amendment	Column III New Name
20.	British North America Act, 1946, 9-10 Geo. VI, c. 63 (U.K.)	The Act is repealed.	
21.	British North America Act, 1949, 12-13 Geo. VI, c. 22 (U.K.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the <i>Newfoundland Act</i> ."	Newfoundland Act
22.	British North America (No. 2) Act, 1949, 13 Geo. VI, c. 81 (U.K.)	The Act is repealed.	
23.	British North America Act, 1951, 14-15 Geo. VI, c. 32 (U.K.)	The Act is repealed.	
24.	British North America Act, 1952, 1 Eliz. II, c. 15 (Can.)	The Act is repealed.	
25.	British North America Act, 1960, 9 Eliz. II, c. 2 (U.K.)	Section 2 is repealed and the following substituted therefor: "2. This Act may be cited as the <i>Constitution Act, 1960</i> ."	Constitution Act, 1960
26.	British North America Act, 1964, 12-13 Eliz. II, c. 73 (U.K.)	Section 2 is repealed and the following substituted therefor: "2. This Act may be cited as the <i>Constitution Act, 1964</i> ."	Constitution Act, 1964
27.	British North America Act, 1965, 14 Eliz. II, c. 4, Part I (Can.)	Section 2 is repealed and the following substituted therefor: "2. This Part may be cited as the <i>Constitution Act, 1965</i> ."	Constitution Act, 1965
28.	British North America Act, 1974, 23 Eliz. II, c. 13, Part I (Can.)	Section 3, as amended by 25-26 Eliz. II, c. 28, s. 38(1) (Can.) is repealed and the follow- ing substituted therefor: "3. This Part may be cited as the <i>Constitution Act, 1974</i> ."	Constitution Act, 1974

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## ANNEXE I (suite)

## LOI CONSTITUTIONNELLE DE 1981

Colonne I Loi visée	Colonne II Modification	Colonne III Nouveau titre
20. Acte de l'Amérique du Nord britannique, 1946, 9-10 Geo. VI, c. 63 (R.-U.)	La loi est abrogée.	
21. Acte de l'Amérique du Nord britannique, 1949, 12-13 Geo. VI, c. 22 (R.-U.)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : <i>Loi sur Terre-Neuve.</i> »	Loi sur Terre-Neuve
22. Acte de l'Amérique du Nord britannique (N° 2), 1949, 13 Geo. VI, c. 81 (R.-U.)	La loi est abrogée.	
23. Acte de l'Amérique du Nord britannique, 1951, 14-15 Geo. VI, c. 32 (R.-U.)	La loi est abrogée.	
24. Acte de l'Amérique du Nord britannique, 1952, 1 Eliz. II, c. 15 (Canada)	La loi est abrogée.	
25. Acte de l'Amérique du Nord britannique, 1960, 9 Eliz. II, c. 2 (R.-U.)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé : <i>Loi constitutionnelle de 1960.</i> »	Loi constitutionnelle de 1960
26. Acte de l'Amérique du Nord britannique, 1964, 12-13 Eliz. II, c. 73 (R.-U.)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé : <i>Loi constitutionnelle de 1964.</i> »	Loi constitutionnelle de 1964
27. Acte de l'Amérique du Nord britannique, 1965, 14 Eliz. II, c. 4, Partie I (Canada)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé de la présente partie : <i>Loi constitutionnelle de 1965.</i> »	Loi constitutionnelle de 1965
28. Acte de l'Amérique du Nord britannique, 1974, 23 Eliz. II, c. 13, Partie I (Canada)	L'article 3, modifié par le paragraphe 38(1) de la loi 25-26 Elizabeth II, c. 28 (Canada), est abrogé et remplacé par ce qui suit : «3. Titre abrégé de la présente partie : <i>Loi constitutionnelle de 1974.</i> »	Loi constitutionnelle de 1974

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## SCHEDULE I

to the

CONSTITUTION ACT, 1981—*Concluded*

Item	Column I Act Affected	Column II Amendment	Column III New Name
29.	British North America Act, 1975, 23-24 Eliz. II, c. 28, Part I (Can.)	Section 3, as amended by 25-26 Eliz. II, c. 28, s. 31 (Can.) is repealed and the following sub- stituted therefor: "3. This Part may be cited as the <i>Constitution Act (No. 1), 1975.</i> "	Constitution Act (No. 1), 1975
30.	British North America Act (No. 2), 1975, 23-24 Eliz. II, c. 53 (Can.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the <i>Constitution Act (No. 2), 1975.</i> "	Constitution Act (No. 2), 1975

And on the amendment thereto of The Minister of Indian Affairs and Northern Development, as amended in the French version,—That the proposed *Constitution Act 1981* contained in the motion in the name of the Minister of Justice (Government Business, Government Motion No. 56), as printed in the *Order Paper* of Monday, November 23, 1981, be amended

(a) by adding, immediately after line 19 on page 24 of the *Order Paper*, the following:

## "PART II

RIGHTS OF THE ABORIGINAL PEOPLES OF  
CANADA

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada."

(b) by renumbering the subsequent parts and clauses accordingly.

*The Constitution*ANNEXE I (*fin*)

## LOI CONSTITUTIONNELLE DE 1981

Colonne I Loi visée	Colonne II Modification	Colonne III Nouveau titre
29. Acte de l'Amérique du Nord britannique, 1975, 23-24 Eliz. II, c. 28, Partie I (Canada)	L'article 3, modifié par l'article 31 de la loi 25-26 Elizabeth II, c. 28 (Canada), est abrogé et remplacé par ce qui suit : «3. Titre abrégé de la présente partie : <i>Loi constitutionnelle n° 1 de 1975.</i> »	Loi constitutionnelle n° 1 de 1975
30. Acte de l'Amérique du Nord britannique n° 2, 1975, 23-24 Eliz. II, c. 53 (Canada)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : <i>Loi constitutionnelle n° 2 de 1975.</i> »	Loi constitutionnelle n° 2 de 1975

Et sur l'amendement, telle que modifiée, du ministre des Affaires indiennes et du Nord canadien,—Que le projet de *Loi constitutionnelle de 1981* qui figure dans la motion du ministre de la Justice (Affaires gouvernementales, motion n° 56 du gouvernement) parue dans le *Feuilleton* du lundi 23 novembre 1981 soit modifié par:

a) insertion, après la ligne 19, page 24 du *Feuilleton*, de ce qui suit:

## «PARTIE II

DROITS DES PEUPLES AUTOCHTONES DU  
CANADA

35. (1) Les droits existants - ancestraux ou issus de traités - des peuples autochtones du Canada sont reconnus et confirmés.

(2) Dans la présente loi, «peuples autochtones du Canada» s'entend notamment des Indiens, des Inuit et des Métis du Canada.»;

b) les changements de numéros de partie et d'article qui en découlent.

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**Mr. Gauthier:** Madam Speaker—

**Madam Speaker:** The hon. member for Ottawa Vanier.

**Mr. Gauthier:** Madam Speaker, there must be some mistake, because I do not think—I am very surprised to have the floor. Before I go on, Madam Speaker, could you tell me whether I am supposed to address the subamendment? Am I still allowed only twenty minutes, or have all agreements been waived?

**Madam Speaker:** I would ask the Clerk to read again the order of the day, so that the hon. member will know what he is supposed to address.

*(The Clerk read the motion again.)*

[English]

**Mr. Deans:** Madam Speaker, I rise on a point of order. I drew from what we just finished discussing that we had agreed to have the hon. member for Cowichan-Malahat-The Islands (Mr. Manly) move his subamendment, to allow an opportunity for debate, and then to go to the vote. I understood that was agreed.

● (1530)

**Madam Speaker:** I understood that too, but when hon. members do not rise I cannot recognize them. I am sorry, but the hon. member for Ottawa-Vanier (Mr. Gauthier) had risen before the hon. member for Cowichan-Malahat-The Islands (Mr. Manly). I did wait a few seconds because I had understood the agreement and there was no House order. If the hon. member for Ottawa-Vanier wants to defer, because I think he has understood the wish of the House although an order was not made, perhaps he could make his speech at a later time. That was my understanding. However, I am in the hands of the House.

[Translation]

**Mr. Pinard:** Madam Speaker, I understood earlier that we had come to a partial agreement to the effect that the NDP member would move a subamendment and make a short 15-minute speech, after which there would be one speaker for the Conservative Party and perhaps one from the Liberal Party, and that we would then vote both on the subamendment and the amendment, provided that the hon. member for Yukon (Mr. Nielsen) could be recognized immediately afterwards. This is what we have agreed to. I thought that this was quite clear and that an order of the House had been made. What the House leaders are now going to discuss in my office concerns something else: shorter speeches and a vote on the main resolution within a very short time. That is what we want to

negotiate. It has nothing to do with the agreement which has already been made.

In these circumstances, I respectfully submit that the hon. member for Ottawa-Vanier (Mr. Gauthier) might be recognized later on but that we must first comply with the earlier agreement.

**Mr. Nielsen:** That is correct.

**Madam Speaker:** That is exactly what I had understood, even though the hon. President of the Privy Council (Mr. Pinard) has made it quite clear. Certain conditions have been discussed, namely that the speeches be shortened and that the House agree to a number of things. That is why I did not officially ask the House if this were to be made an order. I can do so now. Does the House wish for the proposals explained by the hon. President of the Privy Council to be made an order of the House?

**Some hon. Members:** Agreed.

**Mr. Gauthier:** Madam Speaker, I simply wish to co-operate with the House. I do not want to delay the proceedings, but I have the clear impression that I never heard any public announcement of an agreement by one of the three negotiators. I had been recognized, but I am willing to let the hon. member for Cowichan-Malahat-The Islands (Mr. Manly) speak before me. However, I reserve the right to speak after him or as soon as I can be recognized.

**Madam Speaker:** I thank the hon. member for yielding with good grace. The situation has not been clearly explained or understood. I tried to clarify matters by asking that question just now. It seems to me that the reply was very clear and that the House now wishes to hear the hon. member for Cowichan-Malahat-The Islands. I certainly hope that the hon. member for Ottawa-Vanier (Mr. Gauthier) will have an opportunity to express his views.

[English]

**Mr. Jim Manly (Cowichan-Malahat-The Islands):** Madam Speaker, I should like to thank hon. members for their courtesy in affording me the opportunity to speak at this time.

Last January when the aboriginal rights clause was first accepted by the constitutional committee, everyone present regarded it as a great step forward for the Indian, Inuit and Metis peoples of Canada. While joining in the general euphoria of the moment, at that time I said that members of the New Democratic Party would be looking very closely at

the amending formula for that section. Subsequently, the Leader of the New Democratic Party, the hon. member for Oshawa (Mr. Broadbent), obtained a promise from the government that the aboriginal and treaty rights clause would be fully entrenched, as it was, in Section 55(c) of the resolution which was referred to the Supreme Court of Canada.

On Tuesday of this week the Minister of Indian Affairs and Northern Development (Mr. Munro) moved an amendment to include an aboriginal and treaty rights clause, but he did not include any formula for entrenchment or amendment. In the absence of any such formula the aboriginal people in the provinces are at the mercy of Section 42. Under that section those rights could be altered, amended or even extinguished by bilateral action of the federal government and individual provinces. Aboriginal rights in the Yukon and Northwest Territories could be altered or extinguished by the federal government acting unilaterally.

It is in this context that I wish to move an important amendment. I move, seconded by the hon. member for Vancouver-Kingsway (Mr. Waddell):

That the motion of the Minister of Indian Affairs and Northern Development be amended by adding thereto after Section 35(2) the following:

35(3) An amendment to the Constitution of Canada in relation to the rights of the aboriginal peoples of Canada set out in this part may be made by proclamation issued by the Governor General under the great seal of Canada only in accordance with the following procedure:

(a) In the Yukon and Northwest Territories, when so authorized by resolution of a two-thirds majority vote in the Senate and House of Commons and with the consent of a majority of each of the aboriginal peoples so affected;

(b) In the provinces, when so authorized in accordance with Section 41 and with the consent of a majority of each of the aboriginal peoples so affected.

(4) For the purposes referred to in Subsection 3 consent of the aboriginal peoples shall be obtained by a procedure determined by the Government of Canada and the aboriginal peoples of Canada.

For the record, Mr. Speaker, the minister's amendment appears on page 40 of today's Order Paper.

In assessing the importance of this amendment and the need for it, let us begin by reviewing the process we have followed thus far. All of us remember that last October, when the constitutional resolution was first tabled in this House, there was a completely inadequate recognition of aboriginal and treaty rights. The Charter of Rights and Freedoms simply said that nothing would take away rights or freedoms that pertained to the native peoples of Canada. There was absolutely no positive recognition of what those rights might be.

We are aware of the Prime Minister's opposition to the recognition of aboriginal rights. In 1969 he said that, in his opinion, there was no such thing as aboriginal rights. The split decision of the Supreme Court of Canada regarding the case of the Nishgas in northern British Columbia pointed out that there was very substantial legal opinion to the contrary, and he had to admit that maybe these people have more rights than he thought. As a result, the government came forward with a land claims policy but the narrow legalistic basis of this policy made it very difficult for many people to submit their claims and have them recognized.

### *The Constitution*

In a memo submitted over the signature of the Minister of Indian Affairs and Northern Development there is a section entitled "Native Title Superseded by Law" which reads as follows:

It appears from an extensive historical and legal review that in settled areas of British Columbia, southern Quebec and Nova Scotia, native title has been superseded by law and as a consequence there is no basis under the 1973 policy for negotiating claims settlements in these areas.

This is the reality under which the native peoples have had to try to negotiate their settlements.

Last November I asked the Prime Minister (Mr. Trudeau) if it were not possible to have a clause put in the constitutional resolution that would recognize aboriginal and treaty rights. In his answer he indicated very clearly his own opposition to that kind of recognition.

● (1540)

It seems that the Prime Minister delights in the fact that not all Indian, Inuit and Metis leaders are in perfect agreement concerning rights. He is constantly using this as an excuse for refusing to deal honestly with their concerns, instead of taking a constructive leadership role in bringing these people together, helping them to sort out their priorities and major concerns which could perhaps mesh with the government's concerns. The Prime Minister has delighted in his role as lord of disunity.

In any event, the resolution was referred to the constitutional committee. At that time representatives of different bands, tribal councils and provincial and national organizations came before the committee requesting recognition and entrenchment of their rights. As I said earlier, the government heard and responded to those on January 30. It was a high moment for all people in that committee who were present when a clause was finally inserted into the constitutional proposal which recognized and affirmed the aboriginal and treaty rights of the aboriginal peoples of Canada.

However, the aboriginal peoples were not completely satisfied. They wanted a consent clause. It was not that they wanted Clause 34, as it was, to be removed from that proposal; rather, they wanted to go further. They wanted a clause stating that these rights could only be changed or amended with their consent. I ask, was their concern somehow un-Canadian, irrational or out of line?

In recent months we have seen that the provinces are very concerned about their role in the amending formula. The amending formula in the earlier constitutional proposal was acceptable to many hon. members in this House. We felt that it was fair and reasonably flexible. However, it was not acceptable to the majority of the provinces in 1981, even though it had been ten years earlier. Therefore, the provinces went back to the federal government. They lobbied and they got a different amending formula.

If it was right for the provinces to insist upon an amending formula acceptable to them, surely it was a legitimate act for the aboriginal peoples to insist on an amending formula which was acceptable to them and which would protect their rights.

*The Constitution*

**Some hon. Members:** Hear, hear!

**Mr. Manly:** The New Democratic Party has always supported and worked for such a clause. We would like to see that, and that is the purpose of our amendment today. The aboriginal people have no sound reason to trust their rights either to the federal or the provincial governments. They want and need all possible protection because they can look back on a history of 440 years of lies, deceptions and broken promises in Canada.

When Jacques Cartier kidnapped Donnacona and other Iroquois and took them to France, he began the long, unsuccessful policy of trying to assimilate the Indian people. When he returned to Canada in 1541, all the Indians who had gone to France had died. Instead of admitting this, Cartier lied and told the other Iroquois that their relatives were living like lords in France and did not want to return. This was the first recorded lie to Canada's aboriginal people. It was the first lie, but absolutely not the last. A cynic might suggest that Jacques Cartier laid the two cornerstones of Canadian Indian policy: forced assimilation and lies.

I would like to give two recent examples showing why the Indian people feel they cannot trust the government. First of all, let us look at the question of the B.C. Indian cut-off lands. Back in the early years of this century, the British Columbia government and the federal government appointed a joint commission known as the McKenna-McBride commission to look into the size of Indian reserves in British Columbia. One of the important conditions was that no changes were to be made in the size of reserves without Indian consent. That was contained in the terms of reference. However, in actual fact thousands of acres of prime land were taken away without such consent, affecting 34 reserves and 22 bands in British Columbia. The government's position has been that this act was legal because it was done by legally formalized orders in council.

The Indian people have struggled for 60 years in an attempt to obtain justice on the B.C. cut-off lands issue, and it is still not resolved. That does not give them any confidence in either the federal government or the provincial government of British Columbia.

Second, we can recall that just a year and a half ago the Prime Minister promised that native leaders would be able to participate in first ministers' conferences in all matters directly relating to them. A section in the constitutional resolution was even tabled and sent to the Supreme Court of Canada last year, and it is still there in the present resolution. It states that native leaders, leaders of the aboriginal peoples, would be invited to the first ministers' conference to participate in discussions respecting constitutional matters which would directly affect the aboriginal peoples. That was the very explicit intent.

When the first ministers' conference was held earlier this month, where were the leaders of the aboriginal peoples. They were waiting in Ottawa. They asked to be present but they were not invited. They were not invited to the kitchen where

all the deals were made. They were not even invited to the main conference room to get a chance to state their case. As a matter of fact, there was no public discussion of aboriginal rights at that meeting. The only exception was Saskatchewan, which tabled a counter proposal including the aboriginal rights proposal.

Perhaps we get an idea of what went on when we look at British Columbia's attitude. The Premier of British Columbia first said that the aboriginal rights clause was left out by oversight and that it had not really been discussed at all. However, last week he said: "Yes, we would be willing to reinsert the aboriginal and treaty rights clause if the federal government were willing to pick up the costs". In other words, it all boils down to money. As far as the Social Credit government of British Columbia is concerned, the matter of human rights has a price tag on it.

Right now there are several land claims outstanding in British Columbia. In addition to the Nishga claim, there are the claims of the Gitskan Carrier band, the Kitwancool band, the Association of United Tahltans and the Haisla Nation. The land claims of all of these people have been accepted by the Office of Native Claims for negotiation, subject to provincial participation. However, the province has not indicated any willingness to participate. Other B.C. land claims from the Haida, the Heiltsuk and the Nuu Chalh Nuh are awaiting word as to their acceptance and they will face the same stone wall attitude from the provincial government, which does not want to recognize aboriginal rights because it will cost money. It will take away from its revenue.

British Columbia and other provinces are worried about the costs of recognizing aboriginal rights. I submit that it is a proper part of their job. There is a price tag to the recognition of rights, and provinces, very naturally, must consider the cost. However, we must condemn the cynical attitude of Premier Bennett and the Social Credit government, as they would only consent to an aboriginal rights clause if the federal government were willing to pick up the tab. Certainly there is a price and we must consider it; but we also must consider the opposite, which is a denial of basic justice. Perhaps the government of British Columbia would remember the fact that it has benefited from the wealth of the land taken from the Indian people of British Columbia. Other governments and provinces have benefited from the land which has been taken.

It is now unacceptable to say that a government will only recognize rights if it can be scot-free of any expense. However, in a larger sense, I believe that we need to move beyond the question of cost. In addition to considering the costs of this program, we need to consider the possibilities. We should ask what contribution the aboriginal peoples of Canada can make to our society if we give them half a chance. What possibilities are there to enrich everybody's life if these people are enabled take their full place in Canadian society? Already they have made great contributions to our society, but they have been stymied and hemmed in by lack of resources and the denial of their rights.



● (1550)

In concluding, I simply want to remind all hon. members of the importance of this act of patriation. I want to remind hon. members that the relationship of the Crown to the aboriginal peoples of Canada is a relationship that predates the relationship of the federal government to the provincial governments. It is important, therefore, that this relationship be placed on a sound basis within our Constitution. If we do not do that, we will have a Constitution that is tainted. We will have a Constitution that has written into it a denial of basic justice.

It was good to see what happened last week when people demanded that aboriginal rights be put back into the Constitution. However, we would have been happier if the word "existing" had not been included. But even more than that, we want to see protection of those rights and we want to see those rights guaranteed to the Indian people, the Metis people and the Inuit people of Canada with an amending formula that protects them and is not at the mercy of unilateral action by the federal government or at the mercy of bilateral action by the federal government and one provincial government. We want to see an amendment which gives these people a say in the continuation of their rights and any change contemplated to their rights.

I urge all hon. members to join members of our party in supporting this very important amendment.

**Mr. McRae:** Mr. Speaker, would the hon. member accept just one question?

**Mr. Manly:** Yes, Mr. Speaker.

**Mr. McRae:** Mr. Speaker, I feel very happy about this amendment but I have one difficulty about putting something into a Constitution or into a very important legal document without consultation. Does the hon. member have a way to get consultation and either agreement or disagreement from the native people? The hon. member mentioned three groups, but I think we should add a fourth and separate the status from the non-status Indians. How do we legally get consultation and some kind of agreement or disagreement from the native people? Does the hon. member have a way to approach this?

**Mr. Manly:** Mr. Speaker, in the constitutional proposal there is provision for the Prime Minister to invite leaders of the aboriginal peoples to meet with the first ministers. I presume that in a similar way the Prime Minister could meet with the leaders and draw up some acceptable formula which would enable the government to have the aboriginal peoples declare their interests on this aspect. The native peoples have different organizations. For instance, the Indian people are organized into bands by the federal government. Perhaps in that area it might be the band councils who would be responsible. The Metis people are organized differently and perhaps in that instance a referendum might be required.

In my view, this is a matter to be negotiated, as with the section that says there will be meetings between the Prime

### *The Constitution*

Minister and the leaders of the aboriginal peoples to determine what future rights they may have.

**Hon. Jake Epp (Provencher):** Mr. Speaker, before I begin to speak on the amendment to the amendment proposed by the hon. member for Cowichan-Malahat-The Islands (Mr. Manly), I must say to members of the House that this is quite a way to write a Constitution.

We have here a proposal. I am not trying to reflect on the member's intentions; I know the hon. member and I believe his intentions are honourable, but it is difficult, in debating the Constitution, to address this issue and be able to resolve it in half an hour or less. The cudge sort of hangs over our head that if we cannot do it in half an hour or less, then we better get on to the next issue. That is just not the way to write a Constitution.

Frankly, I abhor the way this is being done. It is not fair to the people—not to members of the House because that is by the by, so to speak. I suggest that we spend a little more time and thought on a Constitution that Canadians will have to live and work with in the future. My comments will be made with that in mind.

It almost reminds me of the kind of situation that took place in the constitutional committee. We would have a proposal put to us and within five minutes we were supposed not only to debate the merits of it but also declare them. What we did, which I think was acceptable to all members of the committee, was to put forward our whole body of amendments. Then members could look at them over a period of time, they could get back to their caucuses, discuss them and come up with rational debate as to the merits or lack thereof on any given issue.

Again I say to the hon. member that in making my comments I am not in any way trying to reflect on his method, it was the only avenue he had. But I suggest to him and to all members of the House that what he suggested is not the best way to approach this whole question. I am not talking about the native questions but rather the matter of Constitution-making.

Having said that, the subamendment of the honourable member has a number of aspects in it which I believe go directly to the heart of the accord. That creates difficulties for all members of this House who want to see the accord preserved and eventually the final vote taken. The subamendment provides, following the salutation:

In the Yukon and the Northwest Territories, when so authorized by resolution of a two-thirds majority vote in the Senate and House of Commons—

I will just stop there for a minute. The amending formula in the resolution that is before us, specifically Section 37(1), sets out the procedure for amending the Constitution of Canada, which is not a two thirds majority in the House of Commons or in the Senate. What is needed is a resolution of the Senate and the House of Commons, which I take to understand to mean 50 per cent plus one. That, I believe, is how this section is being interpreted. Yet for this purpose, and for this purpose only, there is to be a two thirds majority. That is simply

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inconsistent with the resolution before us and the agreement that was made between the nine provinces and the Prime Minister of Canada. In that sense I do not believe we can accept the words "a two thirds majority". That is inconsistent with the accord before us.

Additionally, if we take a look at the honourable member's proposed Section 35(3)(a), after the words "of a two thirds majority vote in the Senate and House of Commons" it goes on to say:

—and with the consent of a majority of each of the aboriginal peoples so affected—

During the time that I held the responsibility of minister of Indian Affairs and Northern Development—I see the honourable member for Notre-Dame-de-Grâce-Lachine East (Mr. Allmand) is in the House and I know that he worked in the same way—we worked with the definition "the peoples involved". That was always difficult to determine. Who were the aboriginal peoples when you got down to the issue of, say, land claims? When you take a look at that section, Mr. Speaker, what would be the result? Consent of the majority of the peoples, that is the aboriginal peoples, but that leaves out the other peoples who live in those territories. While I have no difficulty personally in saying that the aboriginal peoples should be consulted, land claims only in those territories goes beyond just affecting the aboriginal peoples. These claims will affect the future of those territories and, therefore, the future and the lives of all people living in those territories.

● (1600)

If I could just give a practical example, Mr. Speaker, at the present time negotiations for a Yukon land claim are under way. I am pleased that those negotiations are going well. While the negotiations directly involve the Government of Canada and the aboriginal peoples of the Yukon through the umbrella of the Council of Yukon Indians, the legislative assembly of the Yukon, while not being directly involved in the decision-making in the negotiations, is an integral part of the negotiations. Everyone in the Yukon knows that if that land claim is to be successful it will require an agreement. By that I do not mean a formal agreement but a mental agreement or an understanding that in fact the land claim will be to the benefit not only of the aboriginal peoples of the Yukon, but will represent another step forward in reaching the possibility of the Yukon taking its rightful place in the Canadian family.

With all due respect to the hon. member, I see some real difficulties that will be created, not only for the Yukon at this time but as well for the Yukon and the Northwest Territories in the future. While there is an aboriginal majority in the Northwest Territories which, by the way, is reflected in the legislative assembly of the Northwest Territories, problems will exist in terms of the definition of who aboriginal peoples are; and that was a factor, for example, in the COPE agreement in principle. There was a problem there.

There is a problem, for example, in that people who are living in the Northwest Territories who are covered by the COPE agreement in principle are the beneficiaries of the

Alaska claim. I am not trying to say these people are not entitled under these claims, but I am trying to point out to you, Mr. Speaker, and to all members of this House, that this amendment goes very deeply to the natural development and evolution that is now taking place in Canada north of 60. We are deeply concerned that we are almost inserting ourselves into the centre of that process by this amendment.

I said I would not be long, Mr. Speaker, and I do not want to take advantage of the patience the House has shown on these issues, but if you look at Section 41, to which the second part of the amendment refers, you will see that the amendment states in part:

In the provinces, when so authorized in accordance with Section 41 and with the consent of a majority of each of the aboriginal peoples so affected—

I will not deal with the last part relating to the aboriginal peoples so affected, but Section 41 relates in part to the creation of new provinces; that is, the extension of the boundaries of the existing provinces and the creation of new provinces in the territories. It is the opinion and position of our party that we should go back to the position of 1871.

If you look at the resolution before us, Schedule I, the amendments of 1871, you will see that all that the resolution before us does is change the citation of the 1871 amendment. What it leaves in place is that the creation of new provinces in the territories shall be under the jurisdiction and responsibility of the federal government. That is why, when the hon. member for Yukon (Mr. Nielsen) and other members of our party speak later on, we want to refer back to Section 41(e) and (f), and that is why we would like to see those parts taken out. If we were to vote for this amendment we would in fact be voting against that principle; that is, that we feel this matter should fall within federal jurisdiction rather than a shared jurisdiction between the federal government and the provinces of Canada.

Lastly, if you will just bear with me for one more minute, Mr. Speaker, if one goes back to the point the hon. member for Cowichan-Malahat-The Islands made—and he made a valid point when he talked about the aboriginal people feeling frustration in the sense that they had not received the rights they felt they had been given—you will note his reference to the cut-off lands in British Columbia. I want to tell him that during the time I had responsibility as minister we tried to get also question of those cut-off lands resolved. Quite frankly, I thought we had almost done so, but I regret this still has not been accomplished. I sincerely believe it was just a matter of pushing this over the side, so to speak, and getting it done. I agree with the member that it has to be done and it should have been done. However, with all respect, I do not see how his amendment would necessarily speed up that process at this stage. I think there has to be moral suasion on the part of all of us to encourage that kind of agreement.

Moving now to Section 36, which calls for a federal-provincial conference to be participated in by the federal government, the provincial governments and the aboriginal peoples, Section 36(2) reads:

The conference convened under subsection (1) shall have included in its agenda an item respecting constitutional matters that directly affect the aborigi-

nal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

I know, with all the history we have that has taken us to this point, that an argument can be made as to whether the native peoples were treated fairly. I think hon. members in this House have expressed the belief that they were not. We are now at the point where we have this provision in the resolution, and quite frankly good faith has to prevail. What is needed is that definition which is called for in that item on the proposed agenda of that conference, and which I suggest is also called for by the hon. member's amendment. I have pointed out that there will be difficulty when this conference starts this defining process, and it will take time.

I spoke to some native people yesterday and pointed out that while I accept the argument that wrongs have been done in the past—and I frankly do not think members of this House want to be party to more wrongs—it is now incumbent upon native leaders, the federal government, provincial governments and members of this house to put together an agenda for that conference whereby not only will the definition be discussed but it will finally be concluded. We must take time to do that adequately and properly.

If I could issue one warning to the federal government, it would be this. I see that conference taking place with the federal government acting not only as chairman, but also as a participant, taking its responsibilities under Section 91(2)(iv) as trustee. This will leave the aboriginal peoples to make their claims not only to the provinces, but to the federal government. The federal government will be there not only in the role of chairman, but also as defending the rights of the aboriginal peoples, fulfilling the responsibilities every federal government has had to accept.

That is how I interpret Section 36, and while I commend the hon. member for the sincerity I believe he had in putting forward the subamendment, I suggest not only is it premature but that it also violates the Accord; and, frankly, I think it could do more damage than good in terms of present negotiations.

**Mr. Deputy Speaker:** Order. The Chair has had an opportunity to examine the subamendment offered by the hon. member for Cowichan-Malahat-The Islands (Mr. Manly). The Chair can see a serious procedural problem in so far as the subamendment proposes an amending procedure in a part of the resolution dealing with aboriginal rights. It ought properly to be offered as an amendment in Part IV of the proposed act under the heading "Procedure for Amending Constitution of Canada". I must therefore decline to accept the subamendment offered and suggest that it be moved at a later time.

● (1610)

Is the House ready for the question?

**Some hon. Members:** Question.

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**Mr. Deputy Speaker:** The question is on the amendment. All those in favour of the amendment will please say yea.

**Some hon. Members:** Yea.

**Mr. Deputy Speaker:** All those opposed will please say nay.

In my opinion the yeas have it.

*And more than five members having risen:*

**Mr. Deputy Speaker:** Call in the members.

The House divided on the amendment (Mr. Munro Hamilton East), which was agreed to on the following division:

### (Division No. 127)

#### YEAS

##### Messrs.

Allmand	Demers	Huntington
Althouse	Deniger	Irwin
Andre	Dingwall	Ittinuar
Anguish	Dinsdale	Jelinek
Appoloni	Dion	Jewett (Miss)
(Mrs.)	Dionne	Johnston
Axworthy	(Chicoutimi)	Joyal
Bachand	Dionne	Kaplan
Baker	(Northumberland-	Keeper
(Gander-Twillingate)	Miramichi)	Kelly
Baker	Dubois	Kilgour
(Nepean-Carleton)	Duclos	Killens (Mrs.)
Beatty	Dupont	King
Beauchamp-Niquet	Dupras	Lachance
(Mrs.)	Elzinga	Lajoie
Bégin (Miss)	Epp	Lambert
Benjamin	Erola (Mrs.)	Lamontagne
Berger	Ethier	Landers
Blackburn	Evans	Lang
Blaikie	Ferguson	Laniel
Blais	Fisher	Lapierre
Blaker	Fleming	Lapointe
Bradley	Fiis	(Charlevoix)
Breau	Forrestall	Lapointe
Broadbent	Foster	(Beauce)
Bujold	Fox	La Salle
Burghardt	Francis	Lawrence
Bussières	Fraser	LeBlanc
Caccia	Fretz	Lefebvre
Campbell	Frith	Lonsdale
(Miss)	Fulton	Lumley
(South West Nova)	Gamble	MacBain
Campbell	Garant	MacDonald
(Cardigan)	Gass	(Miss)
Cardiff	Gauthier	MacEachen
Carney (Miss)	Gimaiel	MacGuigan
Chénier	Gingras	Mackasey
Chrétien	Gourde	MacLaren
Clarke	(Lévis)	MacLellan
(Vancouver Quadra)	Gray	Malépart
Collenette	Guilbault	Malone
Comtois	Gurbin	Maltais
Cooper	Gustafson	Manly
Corbett	Hamilton	Marceau
Corbin	(Qu'Appelle-Moose	Massé
Corriveau	Mountain)	Masters
Cossitt	Hamilton	Mayer
Côté (Mrs.)	(Swift Current-Maple	Mazankowski
Cousineau	Creek)	McCauley
Crombie	Hargrave	McCuish
Crosbie	Harquail	McDermid
(St. John's West)	Hawkes	McGrath
Crosby	Heap	McKnight
(Halifax West)	Henderson	McMillan
Crouse	Herbert	McRae
Cyr	Hervieux-Payette	Miller
Dantzer	(Mrs.)	Mitchell
Daudlin	Hnatyshyn	(Mrs.)
Dawson	Hopkins	Munro
Deans	Hovdebo	(Esquimalt-Saanich)
De Bané	Howie	Munro
de Corneille	Hudecki	(Hamilton East)
de Jong		

*The Constitution*

Messrs.

Murphy	Reid	Simmons
Nielsen	(Kenora-Rainy River)	Skelly
Nowlan	Roberts	Smith
Nystrom	Robinson	Tardif
Oberle	(Burnaby)	Taylor
Ogle	Robinson	Tessier
Olivier	(Etobicoke-Lakeshore)	Thacker
Oriikow	Roche	Thomson
Ouellet	Rompkey	Tobin
Paproski	Rose	Tousignant
Parent	Rossi	Turner
Parker	Roy	Veillette
Patterson	Sargeant	Waddell
Pelletier	Savard	Weatherhead
Penner	Schellenberger	Wenman
Peterson	Schroder	Whelan
Pinard	Scott	Wise
Portelance	(Hamilton-Wentworth)	Wright
Prud'homme	Scott	Yanakis
Rac	(Victoria-Haliburton)	Young
Regan	Shields	Yurko—222.
Reid	Siddon	

(St. Catharines)

NAYS

Messrs.

Nil

● (1640)

*[Translation]*

**Madam Speaker:** I declare the amendment carried.

**Mr. Pinard:** Madam Speaker, I wish to inform the House of an agreement reached by the party representatives, and I request that you ask for the unanimous consent of the House to ratify it. First, for the remainder of the debate on the resolution moved by the Minister of Justice, all speeches, whether on the amendments, subamendments or the main resolution, will be limited to 20 minutes, except that members moving an amendment or a subamendment will be entitled to 40 minutes.

We have also agreed to proceed in such a way as to be able ultimately to vote, at four o'clock tomorrow, on the amendment that the hon. member for the Yukon (Mr. Nielsen) intends to move in a few moments. We have also agreed that if a Conservative member introduces an amendment regarding fiscal compensation, the floor would then be given to the Leader of the New Democratic Party, if he is in the House. We also agree that after voting on the amendment moved by the hon. member for the Yukon, the floor be given to a member of the Progressive Conservative Party. I think that just about covers the main points of the agreement we have reached.

● (1650)

*[English]*

**Mr. Nielsen:** Madam Speaker, I may not have received the entire translation. It is my understanding that part of the exception of the 20-minute rule would also be the leaders of the parties—

**Mr. Pinard:** Yes.

**Mr. Nielsen:**—and that the subject matter of the amendment to be moved may be displaced by another—and I made that point. It may not be the fiscal compensation amendment but another one.

**Mr. Deans:** Madam Speaker, in the event that it turns out that the Conservative Party does not move the fiscal compensation amendment, we reserve the right to move the amendment that would normally have flowed from that amendment as a subamendment to the amendment.

*[Translation]*

**Madam Speaker:** Is there unanimous consent?

**Some hon. Members:** Agreed.

**Madam Speaker:** Carried.

*[English]*

**Hon. Erik Nielsen (Yukon):** Madam Speaker, just so that we know what we are talking about in this debate and so that I do not forget to move the amendment when I come to the end of my remarks, I move, seconded by the hon. member for Provencher (Mr. Epp):

That the proposed Constitution Act, 1981 be amended by striking out paragraphs (e) and (f) of subsection 41(1).

I have provided copies of the amendment to both the government House leader and the hon. member for Hamilton Mountain (Mr. Deans).

While the Minister of Indian Affairs and Northern Development (Mr. Munro) is in his seat, I want to set the record straight on something that he said yesterday when introducing the amendment which has just been disposed of. During the debate he said the leader of the government in the Yukon had, to a degree, supported the inclusion of those two subparagraphs, the subject of my amendment, in the resolution. At the time I believe I characteristically, and perhaps discourteously, shouted across the aisle "Rubbish". I have since established that that is precisely what it was.

As the minister knows, the Northwest Territories Legislative Assembly passed a resolution. For the sake of placing it on record—

**The Acting Speaker (Mr. Ethier):** Order, please. If hon. members want to hold private meetings, perhaps they could retire behind the curtains and give the hon. member who has the floor a chance to be heard.

**Mr. Nielsen:** The position of that assembly is stated as follows:

The Legislative Assembly of the Northwest Territories seeks the following amendments to the proposed Constitution of Canada in recognition of the special responsibility of the Government of Canada for the native peoples of the Northwest Territories and the exclusive jurisdiction of the Government of Canada over the Territories.

The relevant paragraph is (2), which reads as follows:

The Legislative Assembly seeks the deletion of Clause 9(e)—

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That would be 41(1)(e) of the resolution.

—of the amending formula in the proposed Constitution which provides for the extension of existing provinces into the territories. The Legislative Assembly sees this authority as an affront to its legislative authority and an infringement of the democratic rights of the people of the Northwest Territories.

**Some hon. Members:** Order, order.

**The Acting Speaker (Mr. Ethier):** Order, please. The hon. member for the Yukon (Mr. Nielsen).

**Mr. Nielsen:** Mr. Speaker, there have been times in the past when I have complained about the sound system. Now I am complaining that it is not loud enough for me to be heard over the hubbub that is going on and the private conversations being held around the House. The matter we are debating is of deep concern to Canadians living above 60. I would be very grateful if hon. members would be courteous enough to allow those members who wish to listen to what I have to say to do so.

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** I will continue:

The Legislative Assembly requests that the power to alter boundaries be exercised as presently provided under the British North America Act, 1871.

(3) The Legislative Assembly also seeks the deletion of Clause 9(f)—

That would be 41(1)(f) of the resolution before the House.

—from the amending formula in the proposed Constitution. This clause provides that notwithstanding any other law or practice, the establishment of new provinces can only be achieved with the consent of Canada and at least two thirds of the provinces whose total population exceeds 50 per cent of the population of Canada. The Legislative Assembly's position is that the right to establish new provinces out of existing territories is vested in the federal Parliament by virtue of the British North America Act 1871 and this power should continue to reside in the Parliament of Canada.

In his remarks yesterday the minister indicated that the leader of the government in the Yukon was somehow in favour, to a degree, of the retention of these subparagraphs in the resolution. Today I received the text of the resolution passed unanimously in the Yukon Legislative Assembly by all members of the government party, all members of the official opposition, that is, the NDP in the Assembly, and, I might add, all members of the Liberal party in the Assembly.

The resolution passed November 23, 1981, some two days before the minister spoke, reads as follows:

MOVED BY: The Honourable C. W. Pearson  
Leader of the Yukon Legislative Assembly

SECONDED BY: The Honourable Howard Tracey  
Minister of Justice

That the Yukon Legislative Assembly supports the efforts of the Legislative Assembly of the Northwest Territories to have Clauses 41(1)(e) and 41(1)(f) of the Constitution Act 1981 now before the House of Commons removed, and that this Legislature further seeks the inclusion in the Constitution Act 1981 of a Clause that will provide for the capability of new provinces to be created under similar circumstances to the BNA Act of 1871.

In other words, they do not want those subparagraphs in the Constitution.

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** I hope the minister will accept the official record of the Yukon Legislative Assembly and of the Northwest Territories Legislative Assembly in establishing the position of those bodies with respect to the subject matter of this amendment.

The native peoples also support the deletion of these two subparagraphs from the constitutional resolution. That is the position of the Council of Yukon Indians and it is the position of the native organizations of the Northwest Territories.

I should like to quote from a position paper submitted by the Aboriginal Rights Coalition on November 12, 1981. On page 2, paragraph (9) reads as follows:

The future aspirations of aboriginal peoples towards provincehood in the Northwest and Yukon Territories must not be made subject to provincial consent.

I think that spells out their position very clearly.

We have just finished voting on an amendment introduced by the minister which reinstates aboriginal rights in our Constitution and describes those rights as existing rights. The native peoples of both territories feel they have an existing right, as they say in the paragraph 9 that I just read, to provincehood in the Northwest Territories and Yukon Territory. They have an existing right which is not subject to provincial consent.

**Some hon. Members:** Hear, hear!

## PROCEEDINGS ON ADJOURNMENT MOTION

[*Translation*]

**The Acting Speaker (Mr. Ethier):** Order, It is my duty, pursuant to Standing Order 40, to inform the House that the questions to be raised tonight at the time of adjournment are as follows: the hon. member for Grey-Simcoe (Mr. Mitges)—Veterans Affairs—Processing of applications for disability pensions b) Terms of eligibility; the hon. member for Hamilton-Wentworth (Mr. Scott)—Hazardous substances—Urea formaldehyde foam insulation—Compensation sought for home owners b) Request for government advice; the hon. member for Kootenay East-Revelstoke—Railways—Employees' hours of work.

[*English*]

It being five o'clock, the House will now proceed to the consideration of private members' business as listed on today's Order Paper, namely private bills, notices of motions (papers), public bills.

There being no items on the Order Paper under private bills, the House will proceed to notices of motions (papers). Does

## GOVERNMENT ORDERS

[English]

### THE CONSTITUTION

#### RESOLUTION RESPECTING THE CONSTITUTION ACT, 1981

The House resumed consideration of the motion of Mr. Chrétien on the Constitution of Canada, as amended, and the amendment thereto of Mr. Nielsen (p. 13346).

**Hon. Erik Nielsen (Yukon):** Mr. Speaker, when we adjourned for private members' hour, I was emphasizing the fact that we had just dealt with a resolution which entrenched in the reinstated Section 34 the right to existing aboriginal rights. That includes existing aboriginal rights in the two northern territories. I read to the House the native position with respect to their rights, in terms of their right to become a participant in a future Canadian province. We now have enshrined in Section 34 by a decision of the House the right to achieve provincial status without the overriding subjection to the so-called amending formula where seven provincial premiers must agree to the carving out of new provinces, together with in excess of 50 per cent of the population.

While I believe the government's acceptance of the April accord by the premiers as a basis for constitutional amendment improved that part of the charter by strengthening the consensus principle, it created a very serious and threatening problem for Canadian citizens living above the 60th parallel. For over half a century, and certainly as long as I have been living in the north—and it is not that long—the dream of provincial status has been the loadstone of northern hopes. It has been central to the vision of the north which sees the development of Yukon and the Northwest Territories as the best and brightest hope for Canada's future. When the Prime Minister (Mr. Trudeau) accepted the inclusion of two clauses in the April accord relating to “the extension of existing provinces into the territories” and “notwithstanding any other law or practice, the establishment of new provinces”, he dealt a crushing blow to the hopes and aspirations of thousands of Canadian citizens resident above 60. He gave away what was not his to give away—the rights and privileges of Canadians of northern Canada above 60.

The clauses proposed by the provinces in the April accord did not become part of the constitutional package until accepted by the Prime Minister in November. They were bad in April; they are bad in November. They had their origin in 1976 when, I am informed, the premier most insistent upon the retention of those two clauses in what turned out to be the accord was the Premier of Nova Scotia. We have been creating movement in order to bring about accord for the deletion of these sections. It had not occurred to me at the time—but it does now—that in discussions with provincial governments and premiers we found that the premier of the province who insisted upon the inclusion of the clauses as we see them now was not the present Premier of Nova Scotia but the minister for amateur fitness and sport, or whatever it is; he is the minister for “Diamond Tooth Gertie”. He was the man who

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insisted upon the retention of this invidious proposal as far as it concerns the two northern territories.

I cannot hear the hon. Minister of State for Mines (Mrs. Erola); I would dearly love to. I know she would not wish to extend her boundaries beyond those she enjoys now.

**Mrs. Erola:** Oh, yes, I would.

**Mr. Nielsen:** Nonetheless, I wish to become serious about this matter of deep concern to the northern territories. Never at any time did the governments of Yukon or of the Northwest Territories participate in putting together either the April accord or the latest arrangement from which the north was totally, resolutely and determinedly excluded. We were given the opportunity as governments in Yukon and in the Northwest Territories to appear as witnesses before the standing committee on a resolution which did not contain these two provisions. After the committee had finished its work and after it reported back to Parliament, there was a meeting of provincial premiers at which the elected legislatures of the two northern territories were not heard. They were not heard in April, they were not heard in November. Yet we are now confronted with two provisions in a resolution affecting the future forever and a day of Canadians, in which we in the north have not had any input; we have not been heard.

● (2010)

In my view, this was a rather cavalier treatment, of the kind to be expected, perhaps, by a Soviet government or one of its satellites. That is what it boils down to. The shutting out of these thousands of Canadian citizens in the north is something about which we are deeply resentful. These give-away clauses that open the door to provincial invasion of the north with the blessing of the federal government are found in the sections that are the subject of the amendment.

I submit to you and to the government, Mr. Speaker, that the government cannot barter away the rights of northern Canadians in order to secure a provincial consensus for the package—a consensus that the hon. member for Provencher (Mr. Epp) and other are working on and on which they are getting some movement so that the premiers now understand what is coming down. As far as the future of the Northwest Territories is concerned, they are coming around to the view that this is not right and coming around to agreement that these clauses should be deleted from both the moral and the legal point of view.

In the early stages of this debate, the Prime Minister talked about trading off rights for fish, trading off rights for oil, trading off rights for whatever. What are we doing if it is not trading off the rights of all Canadian citizens in northern Canada for the sake of consensus? This is an outright betrayal of the rights of northern Canadian citizens who live in a part of Canada where it is felt that the southern mentality stops at the 60th parallel.

There may be one or two exceptions, of course. I would be remiss and ungentlemanly if I did not recognize—and I do so immediately—that one of those exceptions is the Minister of

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State for Mines. If she is truly as happy—and it was a day for champagne—as when the House unanimously passed equal rights for male and female persons, then she should be ecstatic about the prospect of voting in favour of the motion which I have proposed with respect to the rights of northern Canadians, of whom she is one.

As it stands now, Section 146 of the British North America Act, followed by the 1871 Act, gives to the federal Parliament the exclusive jurisdiction to create new provinces. That includes the same process as that which created the provinces of Saskatchewan, Alberta, Manitoba, and British Columbia, which was carved out of the Northwestern Territories as it was known in those days, without any provincial consultation or consensus. Yet the government wants us as a Parliament to barter away those rights in favour of the amending formula.

That is simply not right. It is another example of the rights of northern Canadians being trampled upon.

Arguments have been presented with respect to the effect of Bill C-48, the National Energy Program, whereby the federal government asserts Ottawa's right to northern resources as if the north were a mere department of government. This emphasizes unmistakably the need to bring about provincial status for Yukon and the Northwest Territories as quickly as possible.

I know that the Liberal philosophy and the Trudeau philosophy does not embrace that concept and never will. I point out, however, that they have an obligation to leave Parliament free to enjoy the jurisdiction with which it was originally endowed when that principle of creating new provinces was first established in 1867 and 1871.

For those who would argue numbers and money, I point out that the Northwest Territories, with 60,000 people, has a greater population than either Manitoba or British Columbia had in 1871 when they attained provincial status. Never was it contemplated, either in the BNA Act, the Yukon Act or any other relevant statute, that any of the existing provinces should extend their boundaries northward to gobble up the territories. That idea was first expressed by Premier Pattullo in 1935 in British Columbia and was reiterated by Premier W. A. C. Bennett. Later it was jumped on by Alberta and Saskatchewan. The reaction of northerners was a counterproposal to the effect, "Let's take our boundaries south 54-60, 56-40 or bust."

It is all for the expediency of consensus at a time when northern sections of existing provinces are, in many cases, desperately unhappy because of the inability of far-away provincial governments to understand and solve their problems. Neither the government of Yukon nor that of the Northwest Territories was permitted to participate in the negotiations which took place behind closed doors.

We were permitted in as observers. In the public sessions chairs were placed in the corner of the room for an elected representative of Yukon and of the Northwest Territories. They were not to be heard; they were not to speak on behalf of the people who elected them.

The attitude of the government is that the Minister of Indian Affairs and Northern Development (Mr. Munro) speaks for Canadians in the north. I say, God help us if that is the attitude to be adopted here.

My objective today is to persuade the government of the inherent error in that kind of thinking, an error far too common in southern Canada where the official mindset is irrevocably programmed to the concept "From Sea to Sea". Except from members on this side, we never hear "throughout the country". We never hear "from sea to sea to sea"; we have three seas. I hear snickers from hon. members opposite.

I want to try to convince members that Canada is more, must be more than simply from sea unto sea; Canada is from sea unto sea unto sea. We are a nation with three seacoasts. All are important, and perhaps the most important in terms of Canada's future is the sea that borders on Canada's Arctic.

Commenting on the cavalier treatment accorded to northern Canadians, the *Globe and Mail* on Saturday, November 21, under the heading "Selling of the North" editorialized as follows:

The people of the Northwest Territories and the Yukon—both natives and whites—have been used as bargaining counters in the constitutional argument between the Prime Minister and the premiers.

I could not agree more. This was a blatant political sell-out of a kind for which the Prime Minister is becoming notorious. First, women's rights were sold out—we restored those; the credit goes here for restoring them.

**An hon. Member:** Nice try!

**An hon. Member:** That is the joke of the week!

**Mr. Nielsen:** Let hon. members on my left, the bed partners of the hon. members opposite, rise and say that they are called chiefs.

The women were sold out, Mr. Speaker, and we were responsible for having their rights restored. I noticed with great gratitude today that members to my left voted for the restoration of Section 34 in the Constitution.

● (2020)

I will make another prediction. When those hon. members speak, they will speak in favour of this amendment. Let them say "nay" to it. They do not dare to do otherwise. If they had any conscience or morality on the other side, they would do the same.

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** Unless we are deemed to have less than the same democratic freedoms as southern Canadians, unless we are deemed to be different from any other Canadians, and unless we are deemed to be second-class Canadians, hon. members will support it; but I doubt it, notwithstanding the substantial movement that my friend, the hon. member for Provencher has caused to be made in bringing the premiers together, and, hopefully, they will support this amendment tomorrow.

I could go on and quote from *The Globe and Mail* editorial to which I referred, but I do not think that I will have time. What is happening here is a dastardly betrayal of the rights of the people of Yukon and Northwest Territories.

**Mr. Baker (Nepean-Carleton):** You have got to rectify it.

**Mr. Nielsen:** It is a dastardly betrayal. Certainly, the sooner provincial status is achieved and recognized by Parliament, the sooner will the people in our territories feel at long last that they are part of Canada and that they will be able to develop their resources for the benefit of all Canadians. I hear some cheeping from the hon. member for Birds Hill.

**Mr. Blaikie:** Winnipeg-Birds Hill.

**Mr. Nielsen:** If he wants to cheep, or if he wants to ask a question, I will gladly sit down and let him ask it, and I will answer it; but, otherwise, let him listen and learn. I invite him to come to Yukon and Northwest Territories.

**Mr. Blaikie:** I have been there twice.

**Mr. Nielsen:** For how long?

**Mr. Blaikie:** I have been there twice.

**Mr. Nielsen:** For how long?

**Mr. Taylor:** Fifteen minutes.

**Mr. Nielsen:** I have lived there for 30 years, and if the hon. member will shut up and listen, he might learn something.

**Some hon. Members:** Hear, hear!

**An hon. Member:** It just goes to show that time does not mean a thing!

**Mr. Deputy Speaker:** Order, please. The hon. member for Yukon (Mr. Nielsen) has the floor.

**Mr. Epp:** We thought so, too.

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** I do not mind, sir. It livens up the debate to have these interjections. But if hon. members are really interested and really want to learn, they will listen and they might learn.

**An hon. Member:** From you?

**Mr. Nielsen:** Yes, from me, because I live there. I know what the people throughout the Northwest Territories and Yukon feel, native and white alike, and the hon. member does not.

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** Over and over again, the people of the north have learned that as far as this government is concerned, they have no rights and, indeed, they do not exist. We have judicial

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opinions which state just that, brought down by judges who, I might say, have been appointed to the Supreme Court by a Liberal government. We are mere colonials in the eyes of the government and of the law. That is a fact, and let hon. members speak against that when their turn comes in the debate. I will lay odds that the hon. member for Nunatsiag (Mr. Ittinuar) will say nothing less than what I am saying now.

**Mr. Ittinuar:** I will say a lot more, Erik.

**Mr. Nielsen:** He may do, and that will add to it, more than the interjections of the hon. members are adding to this debate.

**Mr. Epp:** I think you have got to them, Erik.

**Mr. Nielsen:** So far as the north is concerned, our people, our Canadian citizens in the north, are being subjected to a policy of de-Canadianization by this government, which has been running all over the country shouting about its policy of Canadianization. The federal government must not be allowed to get away with the idea that after more than 100 years of confederation-building, the rules can be suddenly changed, and that we will be subjected to the whim of seven provincial Premiers—

**An hon. Member:** Conservative.

**Mr. Nielsen:**—and 50 per cent of the population. I am sorry, I could not hear the interjection. The hon. member asks, "Do you not trust the premiers?" Of course I trust all of our premiers. That is what this country is about. I am afraid the reason for the mess we are in right now is that the government over there does not trust the premiers of the country when they are purporting to speak on behalf of the people within their jurisdiction.

**An hon. Member:** Nine of them trust us.

**Mr. Nielsen:** The people of northern Canada have been treated as second-class and third-class citizens and have been allowed no more role in the constitutional negotiations affecting them than if they had resided in Ulan Bator. For the benefit of people like the hon. member for Willowdale (Mr. Peterson), who probably does not know where Ulan Bator is, it happens to be in outer Mongolia. That is the way we sometimes feel in Yukon and Northwest Territories with respect to our treatment by this government. We are absolutely sick and tired of accepting colonial status, including the administration of bureaucrats thousands of miles away.

Imagine, Mr. Speaker, being a farmer—and I do not suggest for one moment that you are—

**Some hon. Members:** Oh, oh!

**Mr. Nielsen:**—and driving a team of horses with reins 4,000 miles long. That is what we have up there. The end of the reins are here. I will not say where the end of the horse is, but that is where we are.



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**Some hon. Members:** Oh, oh!

**An hon. Member:** We know where the end of the horse is.

**Mr. Nielsen:** Northerners must have the assurance that their future destiny will not be the subject of collusion and whim—but did I hear the unmentionable end of the horse from Newfoundland just interject?

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** If I had to move a motion with any hope of acceptance tonight, it would be to create a referendum to establish two provinces in the north.

I see that my time is slipping by, and so is my speech. If any confirmation was needed of the destructiveness of the proposals regarding the Yukon and Northwest Territories, it is found in the lame and feeble explanation by the Minister of Indian Affairs and Northern Development. The simple fact is that the federal government picked up the proposal embodied in clauses (e) and (f) in Section 41(1) of the accord reached by the premiers in April. It is not strange or unusual to find that kind of thing happening. It is, however, more than strange to find the federal government embodying a principle in the Constitution—and I want to be serious for a moment here—which never before existed in any form; that is, a provincial veto over the formation of a province. The formation of a new province is a power belonging to the federal Parliament. It has always been thus. It does not belong to the government but to Parliament under the BNA Act.

The proposals to which the north objects are a complete reversal of constitutional practice which has existed for over 100 years. It is an indication that the government takes the same cavalier attitude to the powers of Parliament that it does to those of the provinces when its own interests are at stake.

The minister trotted out the statement that it is the federal government's recent practice to consult the provinces when considering the creation of a new province. First, consulting the provinces in any field at all is a new departure for this government. Second, it is a mind-boggling statement by the Minister of Indian Affairs and Northern Development in answer to the question: what new provinces have been created recently?

As far as anyone is aware, the last time a new province was created was when Newfoundland entered confederation in 1949. Certainly that cannot be deemed to be a recent event, nor was the minister around to take part. I will not comment on where he might have been. Therefore, when he says that the government has recently consulted provinces about creating provinces, what is he talking about? What were those recent consultations? What provinces took part in those recent consultations? What possible new provinces were being discussed? Were they talking about a new province of Yukon, which is long overdue for provincehood? I very much doubt it; at least, not with that minister there, not with that Prime Minister there, not with that government there, not with those Liberals there. Is this why we have these new clauses which overturn

the practice of the past and take away a right that belongs to Parliament?

● (2030)

What have they been up to, sir? Is there some way we can get at the facts, facts which Canadians are entitled to know about this government's subterranean tunnels? Parliament creates new provinces, not the government and not the existing provinces. Manitoba, Saskatchewan, Alberta and British Columbia were created by Parliament through a joint address of both Parliaments. Some were colonies, some were territories. British Columbia was a colony. I might interject here that, there are many people who believe that this Parliament has never amended the BNA Act. We cannot do it, they say. How many people would be surprised if I told them it was done? It was done in 1952. How many hon. members know that?

**Mr. Deans:** You just told us.

**Mr. Nielsen:** I am glad the hon. member for Hamilton-Mountain (Mr. Deans) is listening. It is very gratifying and the information just might penetrate his mind.

The BNA Act was amended unilaterally by this Parliament in 1952 when, for the first time, a Member of Parliament was given a seat in this place for the Northwest Territories. A request was not made to Westminster to do this. It was done here. For those who believe, like the hon. member for Hamilton-Mountain when he was supporting the government in the initial resolution together with other members of his party, right down the line—

**Mr. Deans:** Are you going to read and talk for 40 minutes?

**Mr. Nielsen:** I might be asking for a minute or two more.

**Some hon. Members:** Oh, oh!

**Mr. Nielsen:** The bottom line of the argument is that a government cannot take away from the people of Canada the right to establish new provinces through Parliament. To do so is a travesty and a betrayal of a right enjoyed by Canada for over 100 years. The government must be aware of the Pandora's box it is opening with these proposals. First, it is putting off indefinitely the creation of new provinces by subjecting them to provincial veto.

Second, the government is opening the door to provincial intervention and invasion—there is no other word for it but invasion—of the territories now belonging to the Yukon and the Northwest Territories.

Third, the government is inviting a shambles in the administration of resources in those two territories. But that is not surprising to me. I am one of those who believe that the government creates disorder deliberately for its own purposes. It has created and fomented fiscal disorder in the budget, economic disorder in its interest rate policy, constitutional disorder in its tortuous and evasive method of putting together a Constitution for Canadians. This has created unbelievable

disorder in the oil and gas industry by setting up God knows what Crown corporation for what purpose, if not for massive state intervention. The policy of the government is one of creating confusion and disorder.

The people of the north are a special breed. They are Canadians.

**Some hon. Members:** Hear, hear!

**Mr. Nielsen:** They want the rights and privileges enjoyed by other Canadians, no more and no less but the same rights and privileges enjoyed by any other Canadian. They do not want to accept taxation without representation. They will not accept being used as pawns by a politically-minded government. They have chosen to accept hardship and inconvenience. They have chosen to make do with less than their fellow Canadians. They are an independent breed. They are people who stand on their own two feet. I have often called the people in the territories the last bastion of free enterprise in this socialistically torn country of ours.

**Some hon. Members:** Oh, oh!

**Mr. Nielsen:** They laugh over there. Let them visit and get the feeling of the people of the north themselves. Let them ask their own member, the hon. member for Nunatsiak (Mr. Ittinuar).

**Mr. Blaikie:** Why did the NDP win the last by-election?

**Mr. Taylor:** Bird's eye would freeze to death if he ever went up there.

**Some hon. Members:** Oh, oh!

**Mr. Nielsen:** Bird's eye would freeze in his own bird's nest if he went up there.

**Some hon. Members:** Oh, oh!

**Mr. Nielsen:** The northern people do not want to see the north turn into a gigantic reserve operated from Ottawa by people who, in the main, have never seen it.

Sir, I need a few moments more to complete my speech and I ask the indulgence of the House to do this.

**Mr. Deputy Speaker:** The hon. member's time has expired, but he may continue with unanimous consent. Is there unanimous consent?

**Some hon. Members:** Agreed.

**Mr. Nielsen:** Mr. Speaker, I thank the House for its indulgence.

Natives and whites are united on this issue. In this issue there are no natives and no whites; there are only northerners. We are united in fighting the southern Canadian mentality that the world ends at the 60th parallel or before. The world does not end there. It is a different world. Perhaps it is a world where climate is everything and where in most communities in

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the Northwest Territories and the Yukon everything must be flown in. Perhaps it is the last frontier of our country.

Canada's future economic prospects depend on orderly development of northern resources for the benefit of all Canadians. That will come only if provincial administrations are given the task of dealing with conditions on the spot, conditions dealt with by the residents who are there and who know the conditions. The day has long gone when citizens of the north, native or European, will tolerate being a colony of the bureaucracy.

The future belongs to the north, and the north must be free to realize that future for the benefit of all Canadians.

Throughout these negotiations, the elected governments of the territories have been patronized, ignored, treated with indifference or contempt but, whatever else, never heard by their elected representatives.

The Mackenzie Valley, the Beaufort Sea, Melville Island, these are the passwords of the future. Northerners demand a voice in that future so they can speak for a Canadian point of view, a point of view formed by living and working in the north country.

We are the trustees of the future, and it is time that this fact was recognized here in the House and in the country. I hope that by tomorrow we will have that provincial accord which will delete these invidious provisions from the proposed Constitution, and I have every indication from the government that if we do have an assurance that there is that accord, the government will voluntarily support the amendments proposed by me.

With all my heart I hope that this will come about so that we do not take this terribly retrograde step which will forever doom every possibility of the Yukon or any other of our northern territories from ever becoming a province.

**Some hon. Members:** Hear, hear!

[*Translation*]

**Mr. Jean-Robert Gauthier (Ottawa-Vanier):** Mr. Speaker, the purpose of my comments will be to clarify my position on the proposed resolution for patriation of the Canadian constitution, because I feel it is essential at this point in the debate to explain exactly why I disagree with the motion. First of all, I want to make it quite clear that I am personally in favour of patriating the Canadian constitution. Our country will not be fully sovereign until it is able to decide for itself what its future is to be. Patriating our constitution to Canada will remove any lingering traces of colonialism, and from now on, Canadians will make their own decision. I am not opposed to the government's objectives in introducing this motion, nor am I objecting to the way it was done, although I would have preferred the Government of Quebec to have been a partner in the agreement that was concluded. The present situation is probably due to the ambiguity of the Supreme Court decision in which the Justices washed their hands of the whole thing simply tossing the ball back in the politicians' court. It is important to understand which constitutional provisions relate to the Charter of Rights. After establishing what the objectives

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of these provisions are, I will argue about the expected implementation of these provisions.

● (2040)

*[English]*

The main purpose of a constitution is to guarantee the rights of citizens beyond the reach of any political power. Furthermore, it should not be used to protect the rights of majorities but rather those of minorities, for the former, the majorities, protect themselves naturally through their numbers, through political influence and through the environment they create. That is why protection of the rights of the minorities cannot be left in the hands of the majorities, nor in those, for that matter, of the various legislative assemblies.

A constitution is in fact, Mr. Speaker, a social contract which binds a whole nation, and to which each citizen is subject. The latter element should ensure that each and every citizen enjoys respect and equality within the social body, regardless of his origin, opinions, language and beliefs.

*[Translation]*

In the present constitutional resolution presented to the Parliament of Canada by the federal government, these rights will be entrenched in a charter of rights and freedoms. The charter is intended to be universal, above everything else. Its primary objective is to guarantee equal rights to all individuals throughout Canada. The rights in the charter include the right to fundamental freedoms and democratic rights, which are covered by Clauses 1 to 5, and with which I wholeheartedly agree. Clause 6 guarantees mobility rights and rights to gain livelihood everywhere in Canada. Although I agree with the essence of this clause, we shall see that other constitutional provisions make it somewhat less than ironclad, and I would go so far as to say that in practice, its existence is threatened. Clauses 7 to 15 guarantee legal rights, and for the same reasons I gave concerning Clause 6, the implementation of these rights is also threatened throughout Canada. Clauses 16 to 22 deal with official languages, and it is said specifically that these provisions apply to the Parliament of Canada and to New Brunswick. The status of official languages in other provinces is regulated by earlier constitutional provisions in Section 133 of the British North America Act and Section 23 of the Manitoba Act. There, Mr. Speaker, we have the crux of the constitutional resolution. A direct consequence of the fact that the status of the French language is governed by such provisions is that all clauses in the charter starting with Clause 16 are, in effect, English only in seven out of 10 provinces.

*[English]*

It is true that mobility rights and legal rights are guaranteed under the charter, but in reality are those rights guaranteed to French-speaking citizens if they cannot, except in three provinces, be tried in their own language, buy a house in their own language or register their will in their own language? Indeed, can they use their own language to carry on business, make transactions, sign contracts, etc? No, Mr. Speaker.

*[Translation]*

Clause 23 gives constitutional guarantees with respect to language educational rights, up to and including secondary school, in all provinces including Quebec. The wording of Clause 23 is not specific about the administration and control of minority language educational institutions. A liberal and broad interpretation will probably be necessary to establish that the legislators of this House, by applying the process in subparagraph 23(3)(b), and I quote:

(3) The right of citizens of Canada under subsections (1) and (2) . . .

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

That is the process, Mr. Speaker. With due respect to my friend Bill Davis, the premier of my province, there is still a glimmer of hope.

Not more than a week or two ago, my Canadian First Minister told me something I would like to read to you, in reply to a question I asked him on November 9. His answer was: "So I think that to start with, francophones outside Quebec should take time out to celebrate, but not too long", and I agree, Mr. Speaker, there is a glimmer of hope in the fact that a liberal interpretation of this clause may give us access to the administration and control of our educational institutions.

*[English]*

Of course, some will say that since the charter grants minority language education right, throughout the country, the rights of the francophones are, indeed, protected. However, the charter imposes a notion of quantity by specifying, quite ignobly, "where the number is sufficient to warrant"—that famous clause. What will this number be? Who will decide what is to be that number, the provinces concerned or the courts of justice? We can look forward to some tough battles on this question, Mr. Speaker, in the years to come.

Furthermore, in seven provinces out of ten, including my province of Ontario, a French-speaking citizen will not be able to use his mother tongue in the legislative assembly and courts since these rights will not be guaranteed by the Canadian Constitution. Can it truly be said that equal rights are guaranteed to all?

*[Translation]*

The irony of this situation can be readily appreciated. Since the Charter of Rights does not give access to legal and legislative institutions in the language of the linguistic minority in that Canadian province, parents will have to fight in English to obtain recognition of a minimum of the constitutional rights granted to them as francophones. This serious deficiency in the Charter of Rights makes it unacceptable in my opinion. We are told that the charter safeguards the rights of linguistic minorities, but it does so only partially. Minorities are given certain rights, but not the tools required to ensure that they are respected. That is why I disagree with this proposal, Mr.

Speaker. The inclusion of a charter of rights reflects the desire to grant the same rights to all Canadians. Yet, these rights granted in the charter are denied in practice by other provisions. This is what I question. I am told that as a French-speaking Canadian, I am given every right while, in fact, these rights can be exercised fully and completely only in three provinces. In its present version, our future Constitution will maintain the notion of two classes of citizens: those who have rights across the country, namely English Canadians, and those who have rights only in three provinces, namely French-speaking Canadians.

Even the Right Hon. Prime Minister (Mr. Trudeau) was against this disparity of linguistic rights at the time. In reply to a question I asked in this House concerning the equality of linguistic rights, Mr. Trudeau replied, as reported on page 2642 of *Hansard* for January 29, 1979:

—I would insist on the fact that this bill of rights should and must include a bill of rights protecting official language minorities all over the country.

This commitment has been partly met and some of these rights are included in the charter. The problem therefore comes basically from Section 133 which, because of its exclusive application to Quebec, cancels out the total application of these rights in seven other Canadian provinces. Section 133 is the tool used by the English-speaking majority to have access to parliamentary and legal institutions through its minority. This means that all English-speaking Canadians can have access to the democratic institutions in their own language throughout the country, including Quebec, where they are in a minority, and I quite agree with that. However, the majority of the provinces, or seven out of ten, are refusing to grant French-speaking Canadians from Quebec and elsewhere the same right to access in their own language to legislative and legal institutions.

● (2050)

[English]

I am against this double standard in applying legislation in Canadian territory. I am truly embarrassed to realize that today, in 1981, the majority continues to impose itself, even where the members of its group are in a minority, and refuses to grant the same rights to the other linguistic community. I would feel much better if we abolished Section 133 of the British North America Act, thus putting an end to the preferential treatment afforded to the majority.

All provinces should be subjected to the application of such a provision, or it should be simply deleted as was proposed by the Pepin-Robarts Task Force on Canadian Unity. I believe that the arguments brought forward by that commission are the same as those I am advancing tonight.

[Translation]

Moreover, I am not the only one to hold that view. My colleagues of the Ontario branch of the Liberal Party of Canada unanimously passed the following proposal last fall. I

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will spare you the preamble, but the resolution reads as follows:

... Resolved that this meeting of the Liberal Party of Canada (Ontario) firmly support the application of Section 133 of the Constitution to Ontario.

[English]

Even public opinion supports this position which seems to indicate that the population is often more awake than certain politicians would lead us to believe.

At the provincial level, an opinion poll commissioned by *The Globe and Mail* revealed that in Ontario more than 53 per cent of the population agree that the province of Ontario should be bound by Section 133. In my own riding of Ottawa-Vanier, this figure exceeds 66 per cent, according to an opinion poll taken in October, 1981. Over 83 per cent of the population in my riding demand that francophones outside Quebec be granted the same constitutional rights as those granted to the English-speaking minority in the province of Quebec, namely, a completely autonomous education system, which we do not have in Ontario, and the right to use their own language in the legislative assemblies and the courts. Under the present resolution this equality of treatment is denied francophones. For this equality to exist, Section 133 should either be made applicable to those provinces which are not bound by it, or be abolished in the provinces of Quebec and Manitoba.

[Translation]

Now who objects to that? The Ontario Premier, Mr. Davis, of course, and several of his provincial counterparts. The federal government was compelled by Mr. Davis to accept this way of thinking in order to get his support. At that time, since eight provinces out of ten rejected the patriation proposal, the Prime Minister had no choice. Besides, he stated at a recent press conference that nothing would please him more than to compel Ontario to recognize its francophones by forcing Section 133 on that province; but the interplay of political alliances prevented him from doing so. *La Presse* reported in its edition of Monday, November 23, the comments of Premier Davis who said, and I quote:

It is quite obvious that our strong objection to Ottawa's initial intention to review Section 133 of the Constitution in order to institutionalize bilingualism has led the Canadian government to give up that idea.

Mr. Davis, on the other hand, claims that Ontario should not be forced to grant francophones these rights, that Ontario would do it at its own pace, that is, slowly. Need I remind hon. members of all the battles fought by francophones in Ontario to get a few statutory privileges. Need I remind hon. members, to question the good will of Mr. Davis, of the painful clashes I witnessed as school trustee from 1966 to 1979? Sturgeon Falls in 1971-72, Cornwall in 1973, Elliot Lake in 1974, Windsor-Essex, Penetanguishene, and this is only in Ontario, Mr. Speaker, but I could mention similar battles now being fought all over Canada. Mr. Speaker, I should like to read the preamble of the Ontario legislation creating a French school in Essex. I think this preamble is quite eloquent about the legal recognition of francophones in Ontario. I quote:

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[English]

An Act to require The Essex County Board of Education to provide a French-language Secondary School

*Assented to July 12th, 1977*

WHEREAS the French-language advisory committee of The Essex County Board of Education has, since 1969, consistently recommended that a French-language secondary school be provided; and whereas, upon such recommendation having been rejected by the Board in the year 1974, the Languages of Instruction Commission of Ontario recommended that the Board provide such a school; and whereas The Essex County Board of Education, having initially rejected the recommendation of the Commission, subsequently agreed in April, 1975 to proceed with construction of a French-language secondary school, but on and after the 23rd day of February, 1976 ceased to proceed therewith; and whereas a mediator appointed by order in council No. 1452/76 recommended in February, 1977 that the Board build such school, but the Board, on or about the 8th day of March, 1977, decided not to build the school and it is now apparent that no such school will be provided at this time; and whereas there are sufficient French-speaking secondary school pupils resident in or adjacent to the area of jurisdiction of The Essex County Board of Education who have elected to be taught in the French language to warrant the provision of a French-language secondary school; and whereas the public interest, and in particular the interests of such French-speaking secondary school pupils, require that such a school be constructed;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

And the bill followed nine years after the formal recommendation, Mr. Speaker.

[Translation]

The meagre comfort we have obtained from the Ontario government over the past 100 years is the result of bitter fighting such as that I have just described. And Mr. Davis would have us believe that he will grant us additional rights when the Constitution will allow him not to. Let us not dream in colour, Mr. Speaker. One of the best ways to ensure that linguistic minorities enjoy these rights forever is to spell it out in the Constitution. Because the current resolution fails to do so, I must in all conscience voice my opposition. The resolution is incompleting and unfair to francophones. It will create two classes of citizens. It will create a checker board country of legal exemptions. I am sure we could do better, much better.

Another aspect of this resolution which reveals even more its real worth, is the presence in the Charter of a great many *non obstante* clauses. These clauses of course are the result of the negotiated compromise between the federal government and the nine provincial governments. However, if we reflect upon the result of that compromise we realize that this resolution is probably the only federal document which has to rely upon provincial jurisdiction or legislation to become operative. As I pointed out in an earlier speech, that is a good example of a situation where the government of Canada proposes and where provincial governments dispose. How then can we speak of a Canadian constitution? We should instead speak of a constitution of the Canadian provinces made possible through the federal government. Those numerous opting-out clauses leave us in a rather strange situation, Mr. Speaker. I see that you are about to rise. I do not know whether my time is up, but I would seek the unanimous consent of the House to finish my speech because I have only a few pages left to read.

**Mr. Deputy Speaker:** Is there unanimous consent to allow the hon. member to continue?

**Some hon. Members:** Agreed.

[English]

**An hon. Member:** Relevancy. Remember there is an amendment on the floor.

**Mr. Gauthier:** I thank hon. members for their consent. I will speak for another three or four minutes at most.

**An hon. Member:** Speak about the provincial territories.

[Translation]

**Mr. Gauthier:** To put it another way, a Canadian citizen anxious to travel in his own country will have to check very carefully, before leaving his province, how the constitution is interpreted in the provinces where he intends to stay. For instance, if he were to be arrested his legal rights might vary when he crosses a border. Faced with what may be a great number of rights which are applicable or not applicable, the least one can do is wonder whether one is still in the same country or in a federation of different countries. Despite this imbroglio of legal situations which might develop and which I find deplorable, I can fully appreciate the spirit of compromise and co-operation which paved the way for the present agreement. I am all the more pleased to see that this spirit of compromise is enduring, as we have noticed in the past two days. It is that same will to compromise which enabled the governments to return to the bargaining table and redefine a new constitutional agreement which now includes the right to equality for Canadian women and the acknowledgement in our constitution of the rights of the native people.

On these two issues, Mr. Speaker, I am in complete agreement with the position taken by the government of Canada. In view of these demonstrations of good will and of compliance with the true spirit of federalism, I seek the support of all members so that our Constitution will recognize, apart from the rights I just mentioned, the right for citizens of both official language groups to an equal treatment. In fact, Mr. Speaker, that simply means the implementation of the motion I introduced today under Standing Order 43 to ask that all provinces recognize the linguistic duality of Canada and be subjected to Section 17(2), 18(2), 19(2) and 20(2) of the resolution. That would establish in law the equality sought by both language groups. I therefore ask that the government and this House introduce an amendment to that effect, since I cannot do so for reasons of parliamentary procedure. I hope Mr. Speaker that I have made my position clear.

● (2100)

[English]

**Mr. Deputy Speaker:** Hon. members have heard the amendment moved by the hon. member for Yukon (Mr. Nielsen)

seconded by the hon. member for Nepean-Carleton (Mr. Baker).

The hon. member for Nepean-Carleton on a point of order.

**Mr. Baker (Nepean-Carleton):** Mr. Speaker, I was rising to speak in the debate.

**Mr. Deputy Speaker:** The hon. member for Nunatsiak (Mr. Ittinuar).

**Mr. Peter Ittinuar (Nunatsiak):** Mr. Speaker, I am relatively happy to speak to this motion moved by the hon. member for Yukon (Mr. Nielsen). I wish it was unnecessary. It has been a concern since the first ministers' conference two and a half weeks ago, first brought to our attention with full impact by the Legislative Assembly of the Northwest Territories. Certainly it is one that I, as one of the members aspiring for autonomy in the far north on an equal basis with the provinces, would wish to see deleted so we as northern people can proceed with plans in this respect.

It was inconceivable to northerners, both from the Yukon and the Northwest Territories, that the premiers of the provinces could have deliberately agreed to expand their powers to the point of stealing what rightfully belongs to other people. This in itself is unconstitutional. I am sure, under the same circumstances, that all members of the House would react in the way that the assemblies of the two territories and all northern people have reacted.

Therefore this matter is certainly one that the federal New Democratic Party has been concerned with. The day before last the hon. member for Skeena (Mr. Fulton) moved an amendment which I had the honour to second, stating that any changes to the boundaries or political status of the territories should be done only with the consent and participation of the people inhabiting those areas. This is only just. Every person in this country knows that. Most assuredly, the premiers knew that when they agreed to the November 5 accord.

I would like to quote from several documents that might help enlighten people. First, a resolution was passed unanimously in the Yukon Territorial Assembly which reads as follows:

The Yukon Legislative Assembly supports the efforts of the Legislative Assembly of the Northwest Territories to have clauses 41(e) and 41(f) of the Constitution Act, 1981 now before the House of Commons removed and that this legislature further seeks the inclusion in the Constitution Act, 1981 of a clause that will provide for the capability of new provinces to be created under similar circumstances to the British North America Act of 1871.

Second, a resolution was passed in December 1867 in this Parliament asking for jurisdiction over the northwestern territory and Rupert's Land, which states:

—to grant to the Parliament of Canada authority to legislate for their future welfare and good government; and we most humbly beg to express to Your Majesty that we are willing to assume the duties and obligations of government and legislation as regards those territories.

Further to that, I quote from the preamble to the Rupert's Land Act which outlined the terms under which the land transfer was made, which reads as follows:

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—and to grant to the Parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated.

In light of that act, it is clear that the inclusion of Section 41(1)(e) and (f) is a violation of trust and an abdication of the federal government's responsibilities to the territories. By taking this power for themselves, the provinces have made an incursion into federal jurisdiction.

This means that under the powers given them by the inclusion of Section 41(e) and (f), for the first time in history provincial governments will be granted extraterritorial jurisdiction.

Section 41(1)(f) will mean that no new provinces can be established without the consent of at least two thirds of the provinces whose combined population exceeds one half of the total population of Canada and the federal Parliament. Therefore, for the Northwest Territories or the Yukon Territory to become a province, it will be necessary to have the consent of eight governments. This is a marked departure from the present law and past convention, where the authority to establish new provinces resided exclusively with the Parliament of Canada.

This is not acceptable. How would one of those provinces like to be under similar circumstances? I do not think it would like it. We can only assume that, having deleted the aboriginal and treaty rights section from the Constitution Act, 1981, the provinces would never allow northern peoples, no matter how far down the road, the right to look forward to the attainment of full, responsible government under the same conditions and privileges that other Canadians have enjoyed.

This is elitist thinking and repugnant to a society which calls itself democratic. It is repugnant to this party in view of the fact that it is the federal NDP policy to support the right of territorial peoples to self-determination.

In this regard, northern people are realists. We do not ask for provincial status now, but wish to have it when we are ready. We do not expect to own all the resources in the north. However, Bill C-48 takes care of that. Constitutionally, we do expect to have the right to the same political development that all other Canadians have enjoyed. For the moment, while we prepare for advancement in the political sphere, we wish to remain under federal jurisdiction. This jurisdiction was further confirmed under the British North America Act 1871 which, by the way, is included in Schedule I of the resolution. An oversight by the premiers? Perhaps.

To northerners the possibility of provincial takeovers leaves us feeling something akin to what Canadians would feel if the Constitution of the United States included provisions for extending state boundaries into Canada. In the north we have a national identity which is based on our loyalty to our country, but we also have another identity deeply rooted in the fact that we are northerners.

We do not wish to be annexed, and we particularly do not like the scenario of losing our status as residents of a territory through constitutional provisions which we had no part in developing. There were no territorial government representa-

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tives present to defend the autonomy of territorial lands, and so Section 41(e) and (f) made its appearance in the Constitution.

The nine premiers, eight of them Tory I might add, who signed the constitutional accord naturally have a stake in leaving the way open to extending their boundaries, particularly considering the fact that the areas into which they would move are a resource developer's dream. Fossil fuel and mineral resources are considered to be in abundance in the north. The only surprising aspect of this development is that the federal government did not balk at the possibility of future loss of control over the Canada lands which the oil and gas act so ably ensured.

All Canadians would surely empathize with the situation which faces us in the north if they would consider their own reactions under similar circumstances. It is essential to future north-south relations in our own country that the northern territories be allowed to develop within the Canadian tradition in ways which fully involve us politically. The deletion of Section 41(e) and (f) is a small but essential step in this direction.

● (2110)

**Hon. W. Bennett Campbell (Minister of Veterans Affairs):** Mr. Speaker, it is with a great deal of pleasure that I rise to take part in this historic debate. I am sure that all hon. members share in the sense of achievement that is represented in the resolution before the House. It is not every session, nor even every year or indeed every decade, that a subject of this significance is brought before Parliament. I do not believe there will be many such occasions in the future to discuss a matter as fundamental as the Constitution of a country itself, because it is not every year that amendments are brought forward to a matter as important as this.

Because of the historic achievements, I wish to pay particular tribute to those who have been most responsible, especially to the Prime Minister (Mr. Trudeau) who has presided with wisdom and grace over the whole process of constitutional discussions and who, I suggest, Mr. Speaker, will be recognized and acknowledged as the architect of a truly Canadian Constitution. I also pay tribute to the Minister of Justice (Mr. Chrétien), and the provincial premiers and to all hon. members of the House who have debated and discussed this matter, not only in the House but also throughout the country. I also want to add commendations to the literally thousands of Canadians who have participated not only before the committee but in public discussion and who have made their contribution to this Canadian Constitution, because I know that all Canadians share in this achievement.

There is also another reason I am proud to take part in this debate. It is a very special reason. I am a resident of Prince Edward Island. In 1864, 117 years ago, the first meeting to discuss the concept of confederation of the British North American colonies was held in Prince Edward Island. I sat as a member of the Legislative Assembly of Prince Edward Island for more than ten years, in a building called Province House,

known throughout Canada as the cradle of confederation. It is designated today as a national historic site. It was in that building, just down the hall from where the Legislative Assembly still meets, that the Charlottetown Conference was held.

Of that meeting, Sir John A. Macdonald said that if the Charlottetown conference had not been held, never, perhaps for a long series of years, would we have been able to bring confederation to a practical conclusion". As a distinguished Canadian historian, Peter Waite, correctly noted, the Charlottetown conference "Was more than a Canadian triumph; it was the first appearance of an authentic national spirit".

I think it is rather fitting, Mr. Speaker, that during these days when the logical culmination of that original conference is taking place, now as Parliament is taking steps to bring the Constitution to Canada, workmen are putting the finishing touches to the restoration of those confederation chambers in Charlottetown. The building, under Parks Canada, is being restored to the way it was at the time of the Charlottetown conference. It is rather interesting that as we put the finishing touches to this constitutional debate, the finishing touches are being put to the chambers where the idea of confederation itself first took root.

I may be forgiven a certain sense of pride as a Prince Edward Islander because the spirit of confederation really had its birth there. I think it is also useful to look at the resolution that is now before us in two ways. It is, as I said, the logical culmination of the original drafting of the British North America Act. No one in the House or in the country will disagree with the patriation of that act. I believe then, first of all, that we should look at this measure as the fulfilment of a broad range of historical imperatives. As the Minister of Justice so appropriately observed at the beginning of this debate in quoting the words of George Brown, the original Constitution was not a perfect document. Even with the measures that have now been incorporated into it, it is still not a perfect document. Yet it fulfills in many respects the spirit of the Fathers of Confederation. That spirit, those historical imperatives, saw a united Canada from sea to sea. There was a sense of cultural and linguistic diversities throughout the country and a respect for those diversities. There was a recognition of the special needs and the opportunities of each region.

While as a Maritimer I cannot say that the national policy served us extremely well, it is not because of the constitutional framework but because of the loss of that spirit of sharing which was inherent in the concept of confederation at the beginning. Perhaps the original framers were at fault for not including the guarantees. Perhaps the euphoria of nation-building obscured consideration of practical realities as they might and did emerge. In any case, I am happy to see that this resolution not only captures the original spirit of Canada from sea to sea but also confirms and incorporates the commitment of Parliament to those principles.

This brings me to my second point, Mr. Speaker. This step does not only represent the fulfilment of a process which began

more than a century ago, it also represents the beginning of a process, the laying of a foundation for the future of federalism in this country. Not only does it catch up to present realities, it is also forward looking. The entrenchment of native rights, the rights of women, the principle of equalization, embodies some very basic principles which have served this country well and will continue to serve it in the years ahead. It is more than a measure which reflects the state of our country, of our national psyche, at a given period in our history.

It is not simply a measure which is frozen in time. The resolution is both the fulfilment and the promise of the very framework of this country. It is a recognition, a reconfirmation of our confidence in the federalist system, a system which has served us well before and which will serve us better in the years ahead. It is a reconfirmation of a national spirit which was first conceived in Charlottetown, and it promises the opportunity for the continued evolution of the federal character of our country in response to future changes throughout society as a whole.

We talk about the nature of the resolution before us. Over the last number of months we have had a great deal of discussion about the general character of federalism and what it means to all of us. We heard discussions ranging from a preference for a strong federalist system to preference for what has been characterized as a system made up of a "community of communities" where a jurisdiction is transferred from one level of government to the other. In one area there is total jurisdiction for fisheries and in another area there is total jurisdiction for mineral resources, thus areas are abandoned and transferred from one level to the other.

● (2120)

It is very important within this process to ensure that we not only project the federalist system; it must also be changed and must respond to the changing society and country in which we live. I do not mean this in a narrow legalistic sense. I mean it must reflect the co-operative achievement of Canadians working together for a common goal. At the same time—it is clear that we must recognize the diversities of our great country. In fact, I have argued that, because of the unique circumstances of Prince Edward Island, special responses to its needs and opportunities were essential. But I also recognize that a precondition to all that, whether it be the capacity to respond to the diversities of regions or provinces or individuals, is the maintenance of a strong federal system which is crucial to the continued existence of the country.

The Charter of Rights and Freedoms removes the prospect of the exercise of arbitrary political power interfering with the basic rights and freedoms of individuals, just as the entrenchment of the principle of equalization ensures that provinces such as Prince Edward Island will continue to play their legitimate role in the context of a strong federal system of government. On those grounds, I repeat that the resolution makes an assumption about the essential federal character of the country, which I fully endorse and support.

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Throughout the entire constitutional discussions over the past decade or so—in fact over the past half century—the province I represent consistently addressed the need for a strong federal government to redress the imbalances among provinces which have existed. That principle was recognized in 1912 by Sir Wilfrid Laurier who was commenting in the House of Commons on a brief brought before the federal government by the province of Prince Edward Island. "The one reason for recognizing the case presented by Prince Edward Island which has impressed me", said Laurier, "and it is not a constitutional reason, it is not a legal reason, it is a simple question of equity . . ."

I am proud to see the question of equity entrenched in the Constitution, not just as it applies to the provinces, but also as it applies to women, to native people, and to all individuals throughout the country. It would be a shame if that principle, that spirit of equity, were not shared by all governments and by the people they represent. At the risk of making an understatement, the Constitution is a good thing. But it will fail if its spirit and intent are not fully shared and endorsed by the people of Canada and their governments.

As Minister of Veterans Affairs I am deeply aware of the spirit of sacrifice on behalf of the principles of freedom, justice and equity which Canadians before us have made. We can be faithful to that spirit by supporting the resolution. It has been remarked that various enactments contained in the resolution will create a lot of business for lawyers as the legal applications are tested before the courts. I hope that is not the case, not because I want to see lawyers lose business but because it would seem a shame if the spirit and intent of the resolution were diminished by legalistic bickering. Yet, as I said at the outset, the constitutional package represents an excellent start in the process of enabling Canadians to determine the constitutional framework which best serves their needs, while embodying certain fundamental principles which are essential to the future wellbeing of the country and of all Canadians.

There are opportunities for further improvements, but I believe this package provides a sound base upon which to continue to work for the achievement of our common goals in the future. With the patriation of the Constitution, the process will now be in the hands of Canadian citizens.

In conclusion, this package represents not only the fulfilment of our historic aspirations as a country, but also the framework and the basis for our future growth as a nation and as a people. I commend the way in which it has redressed the deficiencies and also the way in which it has ensured the principles of equity and freedom in our future. The original agreement was not forged out of revolution but because reasonable people sat down together. Although it has taken more than a half a century to reach this point—which in itself speaks volumes about the Canadian experience—I believe historians will regard this package as one of the significant achievements of Canadian nationhood and statecraft. It is more than a constitutional package; it is a reaffirmation of our faith in the country.

**Some hon. Members:** Hear, hear!



*The Constitution*

**Hon. Walter Baker (Nepean-Carleton):** Mr. Speaker, I am conscious, when I rise in the House this evening, that I am following a very distinguished speech by a very distinguished member of the House, a former premier of Prince Edward Island and a former leader of the opposition in that chamber who sought refuge in this Chamber. Having been part of the life of Prince Edward Island during the period of time when he was seeking refuge here, I welcome the statesmanlike quality of the hon. member's contribution to the debate.

**Some hon. Members:** Hear, hear!

**Mr. Baker (Nepean-Carleton):** When I came into the Chamber tonight, I did not think I would be following a former premier and a former leader of the opposition. I am pleased that it was a person from other than central Canada.

He said something in his speech which has been brought home to me in the nine years I have been a member of the House of Commons, something which perhaps Canadians forget, that is that a solution which might be dreamed up by a government to apply nationally sometimes does not apply as appropriately in British Columbia or Prince Edward Island as it might in Ontario. What might be appropriate for the hon. member's part of Canada might not be appropriate in western Canada. This speaks to the great diversity of the nation and to the reason why the Fathers of Confederation made a great journey down the St. Lawrence by boat to Charlottetown in 1867 and made the happy return journey to Quebec. This speaks to the reason for having a federal system. We are different, we are different. If we do not realize this, we will miss something as Canadians.

This debate started off in the fall in dreadful rancour. If it meant anything at all as it moved from its stage in the fall to now, it was that somehow or other respect for the importance of the differences in Canada was seeping into the minds of hon. members of the House and of members of the Canadian public who were watching—the differences of region, of development, of language, of race, of time, and the differences in people coming to Canada for the first time. As a result of this debate I hope that, whatever else comes of it, we will begin again the process of understanding what Cartier and Macdonald began in 1867.

The hon. member spoke of confederation. What is confederation? It is a difficult term to describe. Certainly it is similar to a marriage. Certain things are written down and codified about the relationship of marriage, and those things are enforceable between husband and wife. If the husband does not live up to his obligations or his wife does not live up to her obligations in a marriage, the offended party can take the other to court and enforce those rights against the other.

● (2130)

But written words do not keep a marriage together nor do they keep a marriage alive. The things important to domestic peace in marriage are the things that are unwritten, the things that cannot be legislated, that are as simple and straightforward as they are profound. Those things are respect, under-

standing, love, sharing, compromise, trust and forgiveness. They are what grease the wheels of marriage. I have a feeling, Mr. Speaker, that they also grease the wheels of nationhood.

It has been the lack of those elements between the two levels of government in the last while that has caused so much trouble in the Canadian family.

If we have seen precious little of those virtues, then the brilliant judgment of the Supreme Court of Canada pointed the way to peace, to the state where we could begin to talk to each other, to where we were given a second chance as a country, and our leaders were given a second chance to begin again the search for the resolution of some of our difficulties.

Hon. members will recall that at the time of the judgment what was on the minds of us all was what the leaders of the country would do with that time. Would they squander it, begin again the exercise in confrontation that had gone before, or would they begin to talk to each other rather than at each other.

I think all of us in the House tonight can say to the Premiers, can say to the Prime Minister (Mr. Trudeau), can say to the Minister of Justice (Mr. Chrétien) and the others who were involved in those negotiations that they did not squander that time. We are now at the point in the debate where we are considering a new confederation for our country. This is what it amounts to.

The so-called "gang of eight" opposed to what was happening has become the "chorus of nine" in favour. Those who had opposed the very idea of entrenching a Charter of Rights and Freedoms of some kind in the Constitution of Canada are now consulting with ministers of the Crown, with the Leader of the Opposition (Mr. Clark), and with the hon. member for Provencher (Mr. Epp), about how it should be improved. Such is the change in attitude.

Whereas the amending process was a stumbling block to agreement because it gave unnatural powers to the central provinces at the expense of others, somehow or other we have agreed upon the keystone of federalism, that is, the power to amend our Constitution ourselves.

I say to you that at the end of this exercise, Mr. Speaker, this document will go to Great Britain and we will have patriation. We will have the right to amend the Constitution here, again and again and again if we choose.

I listened tonight to the hon. member for Ottawa-Vanier (Mr. Gauthier) who spoke rather feelingly of what is a charter of rights and freedoms. If I quote him correctly, he said that a charter of rights in a Constitution is designed to protect the rights of minorities against majorities.

Hon. members may recall that last fall I said in the House that the rules of practice, what is in Beauséne, what is in the parliamentary tomes, is that the majority does not necessarily have the right to rule. We protect minorities in the country; we have to protect minorities here.

I listened to the hon. member speak—he did not speak before in the debate—and tonight he spoke with feeling from

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his own position. I could understand how he felt. I personally felt that way last fall. As I listened to him, I said to myself that he should have faith in this new beginning because this Constitution has within it the right of all of us as Canadians to participate in advancing rights. That is an important feature.

When the accord was reached, there were some who said that it should not be changed by Parliament. "Don't rock the boat" said the Minister of Justice (Mr. Chrétien). I suggest we have improved the boat. We have added equality of the sexes. We have had unanimous agreement today with respect to the rights of the native people.

We are now talking about an amendment, which I hope will be supported in the House and which I hope will meet with agreement, that will allow the people of the Northwest Territories and the people of Yukon, those people north of 60, to feel that their opportunity, when they want to exercise it, to become a province like Prince Edward Island, like Ontario, like Quebec, like Alberta and like British Columbia, is not taken away from them.

**Some hon. Members:** Hear, hear!

**Mr. Baker (Nepean-Carleton):** I think that is worthy of support. They want only to preserve the right to realize their future aspirations.

I have not travelled much, but I have been in the north several times and I can attest to the spirit of enterprise and the spirit of the future of the people in northern Canada. I think we in the House owe them passage of this amendment. I hope it can be done. I do not say anything tonight in a partisan sense, Mr. Speaker.

The Minister for Veterans Affairs (Mr. Campbell) was kind enough to mention that all members of the House had contributed to bring us to the point at which we are now, and he is right. The resolution before us now is different; the amending formula is different; the Charter of Rights and Freedoms is different, and the differences in Canada are respected in this document.

The Supreme Court of Canada was allowed to function. It brought down a judgment which I say is a brilliant judgment, one that could not be picked apart. It gave the country a second chance. It said the government had a legal right to do what it wanted but to beware if it moved without substantial provincial support. It would be unconstitutional and, I think, divisive and damaging to the country. We have reached a new plateau.

In his kindness in paying tribute to all members of the House, the minister included the Leader of the Opposition. I hope hon. members will allow me to say something about my leader and his part in this process.

There would not have been renewed negotiations but for the steadfastness of the Leader of the Opposition who inspired a sense of commitment to the importance of consensus in the constitutional process.

**Some hon. Members:** Hear, hear!

**Mr. Baker (Nepean-Carleton):** There are many who may disagree with my leader. It is a free country; they can disagree with him if they want. Of course, he reserved the right to disagree with them. He believed in the importance of consensus, in understanding and compromise, and he fought for those things.

● (2140)

I say with as much modesty as I can muster that it was my party which led a battle in the House. It was not understood early in the battle that it was to delay the process, to delay a steamroller, which we honestly believed was wrong. Ultimately, the courts were allowed to decide and make that historic landmark judgment.

I was very proud to be the House leader of the party during that process. I must say that I am delighted not to be the House leader of the party today. When I listened to the point of order being argued today, I was delighted to be able to sit as an observer, because as my friends know, I have argued many points of order before. However, it was important. I do not say this in a partisan sense, looking back on it now, because it is the way things have evolved. However, hon. members will recall that this former resolution was to be in Britain by Christmas—

**An hon. Member:** It will be.

**Mr. Baker (Nepean-Carleton):**—Christmas of 1980. It is best for the country that it was not there in 1980 because I believe—

**Some hon. Members:** Hear, hear!

**Mr. Baker (Nepean-Carleton):**—we would have done great damage. I want to pay tribute to my leader who, right from the outset, said where he stood and never changed his ground. In his speech the other day, he indicated the importance of having Quebec at the table of the accord. He said that we, as a party and as a Parliament, should grasp every opportunity to keep alive any chink of light there might be to have Quebec as part of that accord.

It is important to repeat again and again that there will be an empty chair at the table of confederation if the House approves this resolution. It is important that we keep that chink of light alive if we can because this is not the end of the constitutional process. This is, by virtue of the Constitution itself, the beginning of the constitutional process, a process which will go on as long as this country exists. All of us, everywhere, must try to keep that alive.

I do not know the attitude of the government of Quebec. However, I believe it is important that, whatever we do, we hold ourselves open to the people of Quebec. That is why my leader has proposed an amendment in terms of full compensation for opting out. That is important, as he stated so well to the people of Quebec. That is why I hope that in the discussions he is having there could be some settlement with respect to the issue of language.

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I want to see the Canada clause adopted in that province. I am a Canadian. My children will grow up in this province as Canadians. I would like them to be able to go to that province. My friends on the other side shake their heads, suggesting that it may be impossible, and it may be; but my case is only that that chink of light should be kept alive if it is at all possible. Governments come and go. Public men come and go. As they come and go, attitudes change and societies evolve. Surely, we would want the society in Quebec or elsewhere to evolve so that, as the hon. member for Ottawa-Vanier said, the override clause could be diminished so that rights would be completely entrenched, if they are there at all. This would mean there would be no opting out and there could be no absence from one chair at the table of confederation.

Your Honour can judge from what I say, that I am overjoyed that we have moved from the process of confrontation to one where I feel a great sense of coming together. I think it is important that the resolution go forward with the broadest support we can muster in the House of Commons. We have spent a great deal of time. I believe now, as I look back on it, that time has not been wasted.

**Some hon. Members:** Hear, hear!

**Mr. Baker (Nepean-Carleton):** There are some things in this country that we must tackle, as they are very important to Canadians who may be watching this debate and wanting this debate to end quickly. I want it to end quickly. I want the government to be able to move quickly, regardless of what the vote may be in the House of Commons.

I believe we have demonstrated that Parliament is not the rubber stamp of federal-provincial conferences. We have now demonstrated, in at least two instances, that there is room to improve even their good work, that their work is likely the first word and not the last word, and that this is the Parliament of all Canadians.

I hope that hon. members of the House will approach the amendment put by my successor as House leader, my colleague, the hon. member for Yukon (Mr. Nielsen), in the spirit in which he put it; namely, it is important that we keep the principle of equalization for women and for the aboriginal people of the country entrenched in our Constitution, and that people be allowed to move freely from province to province. Equally, people who want to form provinces, and people who want to protect the boundaries to protect their potential to form provinces, should have that right. That is why, as a person who has been a visitor north of 60, I make a plea to my friends in the government to accept this reasonable amendment put forward by my colleague, the hon. member for Yukon.

In the dying days of the debate, I do not think I will participate in this constitutional debate any further. I appreciate the latitude that Your Honour has allowed me. I feel very much like the hon. member for Ottawa-Vanier felt, as he had not participated in the debate either. I had the opportunity sooner. We will engage in many things, but none more profound than what we are concerned with now.

I want to thank my colleagues on all sides for their kind attention to what I had to say.

**Some hon. Members:** Hear, hear!

**Mr. Maurice Dupras (Labelle):** Mr. Speaker, I wish to begin my remarks in the debate on this resolution by praising my predecessor, the distinguished hon. member for Nepean-Carleton (Mr. Baker). I listened to his speech and I was very impressed by the quality of his contribution to the debate. I did not expect anything else. I knew in advance that my friend, the hon. member for Nepean-Carleton, would bring a constructive contribution to this debate. It is unfortunate that he could not inspire his colleague, the hon. member for Joliette (Mr. La Salle).

[*Translation*]

It is a shame, Mr. Speaker, that the member for Joliette did not choose to make the kind of speech just held by his colleague from Nepean-Carleton. However, I would have liked to have heard from my respected colleague from Nepean-Carleton how he intends to convince Mr. Davis, the Premier of Ontario, to recognize minority rights in Ontario, as demanded by my colleague from Ottawa-Vanier (Mr. Gauthier), on the same terms as they are recognized in New Brunswick and Quebec. I hope that the member for Nepean-Carleton will be able to convince his colleagues and Mr. Davis that they would be well advised to do so. In fact, if national unity is the issue, Mr. Davis should be made to understand that the Progressive Conservative members in the House of Commons are supporting this petition being made by the members from Quebec on behalf of the people of the Province of Quebec. And contrary to the claims of our colleague from Joliette, although the Government of the Province of Quebec is not represented among the signatories to the agreement, Quebecers do not lack representation. And this, Mr. Speaker, is because the main architects of the new constitution are people from the Province of Quebec—I see that my colleague from Nepean-Carleton agrees. Since I have only a few minutes until ten o'clock, Mr. Speaker, before broaching points that are of particular concern to me, especially regarding the resolution, I wish to say a few words in praise of those who, in fact, have worked for months toward that historic moment when Canada and Canadians will have their own Canadian constitution, and I am, of course, referring to the Minister of Justice (Mr. Chrétien) and the Right Hon. Prime Minister (Mr. Trudeau).

● (2150)

Mr. Speaker, Canada enjoys an enviable reputation in the rest of the world, and that is why the world is watching us today and why observers are anxious to see how Canadians are going to deal with the issue of getting a truly Canadian constitution, how they are going to convince Canadians from every part of the country that there are tremendous benefits in national unity and that Canadians should have a made-in-Canada constitution. The same observers, whether they are

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from Europe, Asia or South America, will probably be very surprised to see how passionately involved Canadians have become in their country in the course of this debate. At the beginning of November the situation seemed to have reached an impasse, but then came incredibly rapid developments and we are now actually about to create a truly Canadian constitution. And this is thanks to the spirit of co-operation shown by all heads of provincial parties, all provincial first ministers, with one exception, of course, but with 74 members in the House of Commons, one can say that Quebec is amply represented and that the interests of Quebecers are in good hands. We have been doing this for years, Mr. Speaker. If there are 74 of us, it certainly did not happen by accident, and the reason is surely that the members from the province of Quebec are dedicated to defending the interests of Quebecers.

Of course, the Government of the province of Quebec was in a position where it could not sign this kind of agreement, for the simple reason that its number one priority and *raison d'être* is to separate the province of Quebec from Canada. Would the party's militants agree to having their leader sign and become a Father of the Canadian Confederation? Imagine! I do not understand how anyone could entertain the thought that those people would be capable of coming to Ottawa in good faith and making a sincere contribution to advancing the case of Canada's Constitution. In fact, they made it quite clear that they thought it was a non-starter and that they were not interested. The whole point of their being there was to apply delaying tactics. Every time a solution seemed imminent, every time a problem was resolved, they managed to find other ways to obstruct the proceedings and to keep Canadians from getting their made-in-Canada constitution. Of course, that is part of their program. And that is how they keep the aspirations of their militants alive.

Mr. Speaker, today the Premier of the province of Quebec or perhaps I should say the provincial Premier of Quebec, is claiming that he has a veto right, which he himself had refused last April, when he acknowledged that he did not, in fact, have a right of veto. Besides, if he had been convinced that he had veto powers, he would not have found it necessary to go to the Supreme Court and ask them to decide whether two major provinces, with the Canadian Government, could ensure the patriation of our constitution with an amending formula and the Charter of Rights. If he had felt for a minute that he really had that veto right, he certainly would not have gone to the Supreme Court. Clearly Mr. Speaker, his arguments are frivolous.

I referred earlier to the contribution of the hon. member for Joliette, the Progressive Conservative member for Joliette. I had expected that his contribution to this debate would be inspired by loftier sentiments.

Once again, Mr. Speaker, he kept carping at his colleagues from Quebec. It is a nice thing in such an assembly to hear someone claim that only he can be right. This reminds me, Mr.

Speaker, of that soldier who was marching out of step in a parade and saying: I am not out of step, all the others are. This is absolutely shocking and what I found most disappointing in his intervention was his lack of support for his leader. After hearing him, the first question you wanted to ask was this: Is his leader really sitting at the House of Commons or in the Quebec Legislative Assembly? And from his comments, to which we are unfortunately used, I infer that his leader is not sitting in this House but in Quebec. However, as a member of the federal Parliament addressing the constitutional proposal, it seems to me he should have supported his own leader, the leader of the federal Progressive Conservative Party in his efforts to convince his Quebec leader to sign the agreement, like his counterparts from the other provinces. But he did not, Mr. Speaker. He did not have the decency to praise his leader's commendable efforts to convince Premier Lévesque, on behalf of the Quebec people, to support the resolution as suggested and supported by the other premiers. But he may also see some political advantage in trying to turn Quebecers' minds away from matters which are relevant to them. The longer the debate goes on, the better it is for him because there are problems Quebecers have and wish to discuss among themselves, for instance the gasoline tax increase, the National Holiday scandal, the high increases in electricity rates and many other matters, such as the scandals and the mismanagement at the Department of Education. Quebec, or at least the present provincial government is pleased that the debate is still going on in this place because it keeps the people's minds occupied in every province and especially in Quebec.

Mr. Speaker, before calling it ten o'clock I would simply like to repeat how tiresome it is for us Quebecers that so much time is being spent on deciding to give ourselves a Canadian constitution. With your permission I will read a statement by one of my predecessors here in this House of Commons, the member for Labelle in the 1930s, Mr. Henri Bourassa, who upon returning from a trip—Mr. Speaker, I see that you want to call it ten o'clock, so I will wait until tomorrow to quote my colleague and predecessor, Mr. Henri Bourassa.

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## PROCEEDINGS ON ADJOURNMENT MOTION

[Translation]

A motion to adjourn the House under Standing Order 40 deemed to have been moved.