CONFIDENTIAL

May 2nd, 1975.

MEMORANDUM FOR MR. ROBERTSON

Patriation of the Constitution
Anticipated Questions by Provincial Premiers

The proposal, as I understand it, is that we make those parts of the Constitution not now amendable in Canada amendable by the formula agreed upon at Victoria and that we patriate the Constitution by asking the U.K. Parliament to divest itself of all legislative authority it presently holds in respect to Canada.

Questions regarding the following matters may arise in your discussions with provincial Premiers.

1. Whether the procedure to be used would be precisely the same as that worked out in 1971?

The same procedure as that worked out in 1971 could and perhaps should be used to patriate the Constitution. The only difference between what was planned at that time and what is planned now is that instead of incorporating the whole Canadian Constitutional Charter into our Constitution we would be incorporating only the amending formula from that Charter (Articles 49, 50, 51, 52, 56, 57 and an amended version of 59).

The procedure of patriating the Constitution worked out in 1971 was agreed upon as being the best method for providing us with legally legitimate constitutional change (in the sense of maintaining an unbroken legal authority for actions having legal consequences) while at the same time making it clear that the changes to the Constitution were an exercise of Canadian sovereignty and not a creation of the U.K. Parliament.

This feeling, that changes to our Constitution should be autochtonous, may have been stronger in 1971 than it would be in reference to the present proposal because so many substantive changes to the Constitution were contemplated at that time. Nevertheless I would assume that much of the sentiment that in 1971 led to the desire to have changes in our Constitution "made in Canada" instead of conferred by the U.K. Parliament would still prevail,

thus indicating that the same procedure should be used even though we are only dealing with the amending formula.

The main operative act under the 1971 procedure of patriation was the Proclamation by the Governor General. This would have established the new amending formula (as well, of course, as the whole Charter), defined the Constitution of Canada (by listing all the documents of which it consists), while at the same time triggering the operation of a U.K. statute which would repeal all the Canadian constitutional documents as U.K. statutes, recognize the Proclamation of the Governor General, and, divest the U.K. Parliament of its remaining legislative authority in respect to Canada.

An alternative procedure to which reference might be made by provinces in your discussions with them is the procedure it was planned to use in 1964 to implement the Fulton-Favreau formula. Under that procedure all provincial legislatures were to pass resolutions approving the amending formula and then Parliament was by Joint Address to request that the U.K. Parliament amend the B.N.A. Act to confer amending power on federal and provincial legislatures, simultaneously divesting itself of all remaining legislative authority in respect to Canada.

While both procedures are in fact equally an exercise of Canadian sovereignty since the U.K. Parliament will only act on the request of Canada, the procedure worked out in 1971 has the advantage in that it has the appearance of being more autochtonous. It also has the advantage in that it provides a mechanism for the repeal of Canadian constitutional documents as U.K. statutes and their coincident establishment as exclusively Canadian documents. Another advantage is that the procedure was agreed to in 1971 and if the starting point for discussions with provinces is the agreement reached in 1971, I suppose you would prefer to stay as close to that agreement as possible.

2. What was the procedure for patriation worked out in 1971?

The procedure for patriation involved three main steps which were agreed upon at the Third Working Session of the Constitutional Conference, February 8-9, 1971. These are as you know set out at p. 210 of the Secretary's Report. They would now become:

(i) Resolutions passed by all provincial legislatures and both Houses of Parliament authorizing the issuance of a Proclamation by the Governor General. The Proclamation would contain the amending formula and trigger the operation of British law (referred to in (ii)) which would repeal Canadian constitutional documents as British laws and establish them at the same time as exclusively Canadian documents.

(ii) Legislation by the U.K. Parliament which would come into effect upon issuance of the Governor General's Proclamation and would:

(a) recognize the legal validity of the Canadian Proclamation;

(b) provide that no future British law should have application to Canada; and

(c) make any consequential repeal or amendment of British statutes.

(iii) Proclamation by the Governor General.

At the time of the constitutional review in 1971 it was agreed that the British legislation /(ii) above/ would be requested by way of an instrument of advice (i.e., the Governor in Council would advise the Governor General to request Her Majesty to place certain proposed legislative provisions before the U.K. Parliament). It was not planned to request U.K. legislative action through a Joint Address to the Queen by both Houses of Parliament because it was thought that the other procedure de-emphasized the U.K. involvement in the patriation process. It is not clear from the published record of the decision of First Ministers that this was the procedure contemplated under step (ii) above because it was framed (p. 210, para. (c) of the Secretary's Report) in the following terms:

> "a recommendation that the British Parliament legislate ..... ".

The verbatim record (p. 210) discloses that the decision was framed in this oblique way to avoid the monarchical flavour involved in referring directly to the fact that the request for legislation would be to the Queen. It also appears from the transcript of the Ad Hoc Meeting of Ministers, May 31-June 1, 1971 that any British action should be as inconspicuous as possible.

3. Forms of Resolution to be passed by provincial legislatures and both Houses of Parliament?

A form of Resolution was agreed to during the 1971 review process. The operative words proposed for the resolutions were accepted at the Ad Hoc Meeting of Ministers May 31-June 1. This was subsequently confirmed by First Ministers at the Conference in Victoria, with one minor change being made in the French version (page 67 of the verbatim transcript). The form agreed upon established the essential wording of the resolutions but left room for additional wording, such as preambles, as desired by the various legislative bodies. A copy of the form of resolution agreed upon is attached as Appendix A.

A copy of the provisions respecting patriation and amendment of the Constitution which would form the substance of the Governor General's Proclamation would be set out in the resolution or appended to it. I am attaching as Appendix B a version of the relevant articles of the Victoria Charter to indicate the general format this would probably take. This draft is intended as a preliminary outline only and has not been reviewed by the legislation section of the Department of Justice.

4. Form of the British legislation.

A final version of the British legislation was never agreed upon in 1971. Consultations were held with U.K. draftsmen; specifics of the statute were discussed and working drafts considered. It was indicated to the provinces at Victoria that while it was not possible at that time to circulate a draft, they would be given the opportunity to consider a draft before the U.K. Parliament was asked to proceed with the legislation. Presumably once a draft for present purposes was agreed upon by the federal and British governments it would be circulated to provinces for comment. I am attaching as "Appendix C"

copies of the memorandum Mr. Strayer sent to U.K. officials, prior to discussions with them, to inform them as to the kind of patriation legislation Canada would be requesting, as well as copies of Mr. Strayer's notes on the Ministerial meeting in London, and a copy of the last draft U.K. legislation which was prepared.

5. Why not incorporate the amending formula agreed upon at Victoria in its totality?

It is my understanding that provinces were anxious during discussions on the amending formula that Parliament's present competence derived from section 91(1) of the B.N.A. Act to amend the Constitution as respects the powers of the Senate, representation in the Senate and representation in the House of Commons be limited. It was their view that amendments in regard to these matters could make changes in the Constitution of great importance to the provinces. This position was also taken by them during the 1950 Constitutional Conference. And, the Fulton-Favreau formula provided for an integration of these powers, now held by Parliament under section 91(1), into the amending formula so that amendments in respect thereto required provincial consent.

Provinces may therefore suggest that articles 53, 54 and 55 of Part X of the Victoria Charter also be incorporated into the present proposal.

This would entail the repeal of sections 91(1) and 92(1) of the B.N.A. Act but the substance of those sections would be re-enacted in articles 53 and 54. Therefore, it would not result in an extensive alteration to the existing Constitution.

Therefore, if provinces raise this issue you may want to consider that approach, especially since it has the advantage of being closer to the agreement respecting the amending formula reached at Victoria since it would provide for the incorporation of the whole formula agreed upon at that time.

6. "Fall-back" Position

I know you do not plan raising this issue in your initial discussions with provinces. Nevertheless, Premier Bourassa's recent public statements on the issue may prompt questions in respect to the federal government's plans if Quebec does not agree to the proposal. Therefore I am attaching a memorandum which sets out the various possible alternative courses of action, their advantages and disadvantages in this regard.

Barbara

Barbara Reed

Attachs.

cc: Mr. R.B. Bryce
Mr. F.A.G. Carter
Mr. B.L. Strayer
Mr. P. Gravelle

MEMORANDUM ON THE PATRIATION OF THE CONSTITUTION:

"FALL-BACK" POSITION

If all provinces do not agree to patriation of the Constitution and an accompanying amending formula, Parliament could proceed alone, or backed by those provinces that do consent, to request the appropriate legislative action from Westminster. For this purpose a joint resolution by the Senate and House of Commons would be passed embodying the request for legislative action.

Alternatives

(1) Westminster could be asked to incorporate into our Constitution the appropriate sections of the amending formula agreed on at Victoria (Articles 49, 50, 51, 52, 56, 57, and an amended version of 59) thereby providing an amending procedure for those parts of the Constitution not now amendable in Canada. These provisions could be made immediately operative despite the objection of one or more provinces. At the same time the U.K. Parliament could be asked to amend or repeal, as appropriate, those sections of the Statute of Westminster which expressly preserve to the U.K. Parliament competence to enact legislation relating to Canada (sections 4 and 7) and expressly provide that no future laws of that Parliament shall apply to Canada (a self-denying ordinance).

This method of proceeding would be the most effective method of obtaining a patriated and amendable Constitution while at the same time removing from the provinces the opportunity to demand a redistribution of constitutional legislative powers in return for agreeing to patriation and an amending formula.

This method of proceeding would also undoubtedly create the most friction with those provinces that did not agree to the patriation and it could be expected that those provincial governments would persevere in their opposition to the extent of petitioning the U.K. Parliament requesting that that body not enact the patriation legislation requested by the Canadian Parliament. It seems unlikely that the U.K. Parliament would not accede to such a provincial request (although it should be noted that in the London discussions of 1971, the British Minister indicated that they were assuming we would be able to get unanimous approval of the provinces). Nevertheless it could create a noisy political controversy which might also be taken up by nationalist parties in the British House of Commons.

Before dismissing this alternative completely however, it would seem necessary to attempt to make an assessment as to whether provincial opposition would in fact be any less if one of the alternative procedures set out below were followed. Opposition might not be

any less because any positive action on the part of the federal government (even though that action did not have the legal effect of overriding provincial dissent) could be characterized for purposes of public consumption as patriation without consent of all provinces (members of the public generally may not make the fine distinction we make between the various alternative procedures). I have in mind that Premier Bourassa may be able to make the same political mileage out of any positive action taken by the federal government under any of the procedures set out in this memorandum merely by labelling it patriation (or amendment to the Constitution) without Quebec's consent even if as a matter of legal fact it did not have this effect.

(2) Westminster could be asked to incorporate into our Constitution the appropriate sections of the amending formula agreed on at Victoria thereby providing an amending procedure for those parts of the Constitution not now amendable in Canada; that formula only to become operative after all provincial legislatures had passed resolutions consenting. At the same time the U.K. Parliament could be asked to repeal or amend sections 4 and 7 of the Statute of Westminster and to pass a self-denying ordinance which would come into operation immediately. Under this scheme it might take ten years or longer to obtain all resolutions and therefore an amending formula; however, once a provincial legislature had enacted a consenting resolution it could not be withdrawn.

This alternative might avoid some provincial opposition because it can be argued that the federal government is not forcing on provinces an amending formula to which they never agreed. However, this procedure may not necessarily move us closer to acquiring a final amending formula. While those provisions of the Statute of Westminster which preserve the U.K. Parliament's authority to amend the B.N.A. Act would be repealed and a section of the new U.K. legislation would expressly state that Acts of the U.K. Parliament no longer apply to Canada, the B.N.A. Act, the Statute of Westminster and this new legislation would continue to be U.K. statutes. Therefore, in theory at least it would always be legally possible for the U.K. Parliament to pass an Act to amend those statutes.

The problem that would arise is that now we have a well-defined convention under which the U.K. Parliament in exercise of its powers preserved under section 7 of the Statute of Westminster will amend the B.N.A. Act at the request of the federal government (the extent to which they would proceed in the face of provincial opposition is uncertain but it could undoubtedly do so) and section 4 of the Statute of Westminster expressly provides that Westminster may pass other laws in relation to the Dominion of Canada when the Dominion has requested and consented to the enactment. The repeal of sections 4 and 7 of the Statute of Westminster and the enactment of a self-denying ordinance by Westminster would leave us in a

Why would we want the UK to amend it? (We should go for #3 — with the "interim" formula.)

position of uncertainty in that we would no longer have an established convention or an express statutory provision indicating at whose request the U.K. Parliament would in future act to amend this new legislation. Would the U.K. Parliament still continue to do so at the request of the federal government? Would they only act on a request for amendment when all provincial governments and the federal government agreed to the request? Or, having having deliberately divested themselves of legislative authority over Canada, would they refuse categorically to take any action?

Unfortunately, therefore, this method of proceeding might strengthen rather than weaken the provinces' bargaining position vis-à-vis the federal government. While an amending formula would be potentially provided, any province could prevent the operation of that formula by refusing consent and demand instead that the U.K. Parliament be asked to enact a different amending formula as well as amendments redistributing federal and provincial legislative powers. At the same time the federal government would possibly have relinquished the option presently open to it to request constitutional amendment despite lack of agreement by all provinces.

(3) The procedure set out in paragraph (2) above could be adopted with the provision added that until all provinces consented, an interim amending formula would operate so that matters now amendable only by the U.K. Parliament might be amended by unanimous consent of Parliament and the legislatures.

This alternative would constitute a more genuine patriation of the Constitution than the procedure set out in paragraph (2) and would remove from provinces the opportunity to demand a quid pro quo for agreeing to patriation. It is subject to the same consideration as the proposal set out in paragraph (2), however, in that it could be argued that the federal government would thereby relinquish its present undefined ability to obtain an amendment to the B.N.A. Act without unanimous provincial consent. It could, of course, be said that as a practical matter such an amendment does nothing more than convert what is present practice, as a matter of constitutional convention, into a statutory requirement because the federal government has in the past when seeking an amendment where the rights of all the provinces were affected, (e.g., finding an amending formula) proceeded on the premise that the consent of all the provinces was desirable.

This is worst — and it would become an argument, if we stay in 1975, in favour of getting agreement on the Victoria formula now — so as not to run the risk

The disadvantage with this procedure is that although we are speaking about the requirement of unanimous consent as an interim amending procedure it might very well become the permanent amending formula because certain provinces might never be willing to give the veto power that they would have under it but not under the Victoria formula. Thus we would be left with an amending formula which would

contain those qualities of rigidity and inflexibility that we have so long been attempting to avoid. This approach was suggested at the first Attorney-Generals' Conference in 1960 and was rejected by the provinces. It was also considered briefly in September, 1970, at a Working Session of the Constitutional Review and not considered acceptable.

(4) Westminster could be asked to enact legislation making those sections of our legislation not now amendable in Canada amendable by the Victoria formula, providing also in that legislation for the repeal of sections 4 and 7 of the Statute of Westminster and the inclusion of a self-denying ordinance; the whole statutory provision only to become operative after all provincial legislatures had passed resolutions consenting.

The main advantages to this alternative are that it avoids the necessity for an interim amending procedure and the possible attendant rigidities resulting from alternative 2 and, at the same time, it avoids the uncertainty that would result from alternative 3. The main disadvantage with this alternative is that it changes nothing until there is final agreement on the Victoria formula. This alternative then could be the subject of criticism by both those persons who would like to see our Constitution effectively patriated immediately despite provincial opposition and by those persons who object to the federal government taking any action to patriate the Constitution (even though in fact it may only be an inchoate patriation) without unanimous provincial consent.

APPENDIX A

Agreed Form of Resolution

(English)

" ... that this House /Assembly, etc./ approve the issuance of a Proclamation by the Governor General, proclaiming the following provisions respecting the Constitution of Canada to come into force on a date to be fixed by that Proclamation."

(French)

" ... que cette Chambre (Assemblée, etc.) approuve l'emission d'une proclamation par le gouverneur général énonçant que les dispositions qui suivent relatives à la Constitution du Canada entreront en vigueur à une date fixée par cette proclamation."

APPENDIX B

SUBSTANCE OF PROCLAMATION

1. Amendments to the Constitution of Canada may from time to time be made by Proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the Legislative Assemblies of at least a majority of the Provinces that includes:

(1) every Province that at any time before the issue of such Proclamation had, according to any previous general census, a population of at least twenty-five per cent of the population of Canada;

(2) at least two of the Atlantic Provinces;

(3) at least two of the Western Provinces that have, according to the then latest general census, combined populations of at least fifty per cent of the population of all the Western Provinces.

2. Amendments to the Constitution of Canada in relation to any provision that applies to one or more, but not all, of the Provinces may from time to time be made by Proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the Legislative Assembly of each Province to which an amendment applies.

3. An amendment may be made by Proclamation under Articles 1 or 2 without a resoltuion of the Senate authorizing the issue of the Proclamation if within ninety days of the passage of a resolution by the House of Commons authorizing its issue the Senate has not passed such a resolution and at any time after the expiration of the ninety days the House of Commons again passes the resolution, but any period when Parliament is prorogued or dissolved shall not be counted in computing the ninety days.

4. The following rules apply to the procedures for amendment described in Articles 1 and 2:

(1) either of these procedures may be initiated by the Senate or the House of Commons or the Legislative Assembly of a Province;

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

APPENDIX B

5. The procedure prescribed in Article 1 may not be used to make an amendment when there is another provision for making such amendment in the Constitution of Canada, but that procedure may nonetheless be used to amend any provision for amending the Constitution, including this Article, or in making a general consolidation and revision of the Constitution.

6. In this /Proclamation/ "Atlantic Provinces" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, and "Western Provinces" means the Provinces of Manitoba, British Columbia, Saskatchewan and Alberta.

7. The enactments set out in the Schedule shall continue as law in Canada and as such shall, together with this /Proclamation/, collectively be known as the Constitution of Canada, and amendments thereto shall henceforth be made only according to the authority contained therein.

APPENDIX B

S C H E D U L E

This Schedule is NOT final, subject to confirmation.

Enactments

British North America Act, 1867, 30-31 Vict., c. 3 (U.K.).

An Act to amend and continue the Act 32 and 33 Victoria chapter 3; and to establish and provide for the Government of the Province of Manitoba, 1870, 33 Vict., c. 3 (Can.).

Order of Her Majesty in Council admitting British Columbia into the Union, dated the 16th day of May 1871.

British North America Act, 1871, 34-35 Vict., c. 28 (U.K.), and all acts enacted under section 3 thereof.

Order of Her Majesty in Council admitting Prince Edward Island into the Union, dated the 26th day of June, 1873.

Parliament of Canada Act, 1875, 38-39 Vict., c. 38 (U.K.).

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.

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British North America Act, 1886, 49-50 Vict., c. 35 (U.K.).

Canada (Ontario Boundary) Act, 1889, 52-53 Vict., c. 28 (U.K.)

Canadian Speaker (Appointment of Deputy) Act, 1895, Session 2, 59 Vict., c. 3 (U.K.).

Alberta Act, 1905, 4-5 Edw. VII, c. 3 (Can.).

Saskatchewan Act, 1905, 4-5 Edw. VII, c. 42 (Can.).

British North America Act, 1907, 7 Edw. VII, c. 11 (U.K.).

British North America Act, 1915, 5-6 Geo. V, c. 45 (U.K.).

British North America Act, 1930, 20-21 Geo. V, c. 26 (U.K.).

Statute of Westminster, 1931, 22 Geo. V, c. 4 (U.K.) in so far as it applies to Canada.

British North America Act, 1940, 3-4 Geo. VI, c. 36 (U.K.).

British North America Act, 1943, 7 Geo. VI, c. 30 (U.K.).

British North America Act, 1946, 10 Geo. VI, c. 63 (U.K.).

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Enactments

British North America Act, 1949, 12 and 13 Geo. VI, c. 22 (U.K.).

British North America (No. 2) Act, 1949, 13 Geo. VI, c. 81 (U.K.)

British North America Act, R.S.C., 1952, c. 304 (Can.).

British North America Act, 1960, 9 Eliz. II, c. 2 (U.K.).

British North America Act, 1964, 12 and 13, Eliz. II, c. 73 (U.K.).

British North America Act, 1965, 14 Eliz. II, c. 4, Part I, (Can.).

APPENDIX C

S E C R E T

(For Canadian and United Kingdom Eyes Only)

May 17th, 1971.

"PATRIATION" OF THE CONSTITUTION OF CANADA

Introduction

The Conclusions of the Working Session of the Constitutional Conference (of the Prime Minister of Canada and the first ministers of the provinces) on February 8-9 stated as follows:

"Patriation of the Constitution

2. The Constitutional Conference agreed on a procedure to be undertaken in Canada at a very early date in order to bring home the Constitution and to transfer to the people of Canada, through their elected representatives, the exclusive power to amend and to enact constitutional provisions affecting Canada. This procedure would involve:

(a) Agreement among the governments as to changes and procedure.

(b) Approval of a resolution in the usual way, by legislatures plus the two Houses of Parliament, authorizing the issuance of a Proclamation by the Governor General to contain the amendment formula and whatever changes are agreed upon.

(c) Recommendation that the British Parliament legislate to:

(i) recognize the legal validity of the Canadian Proclamation and its provisions;

(ii) provide that no future British law should have application to Canada; and

(iii) make any consequential repeal or amendment of British statutes affecting the Canadian Constitution.

(d) Issuance of the Proclamation by the Governor General on a date to coincide with the effective date of the British law."

Agreement Among Governments

Discussions have been carried on since that time concerning draft texts of constitutional changes incorporating the matters dealt with in the February Conclusions. The most recent draft, now under discussion, is attached hereto. It will be noted that all the constitutional changes have been put together in a single draft instrument called the "Canadian Constitutional Charter". It is hoped that at the next session of the Constitutional Conference in Victoria on June 14-16 agreement can be reached among all first ministers to recommend such a text, perhaps with modifications, to their respective legislatures or Houses of Parliament for approval. The outcome of the Victoria meeting is, of course, by no means certain at this point because there are a number of issues still requiring resolution.

If the Constitutional Conference does agree on the texts of specific constitutional changes, there will then be three major steps to be taken to achieve patriation as set out in the February Conclusions: approval of the changes by legislatures of the provinces and the Houses of the federal Parliament; legislation by the United Kingdom Parliament; and the issue of a Proclamation by the Governor General.

Resolutions of Approval

It would seem preferable that prior agreement be reached (at the Victoria meeting if possible) on an appropriate general form which first ministers could use in submitting the resolutions to their legislative bodies for approval. Essentially, the resolutions should approve the issuance in future of a Proclamation to bring into effect the Canadian Constitutional Charter as part of our Constitution. Perhaps a wording such as the following would be appropriate:

> " ... that this House /Assembly, etc./ approve the issuance of a Proclamation by the Governor General, proclaiming the following provisions respecting the Constitution of Canada to come into force on a date to be fixed by that Proclamation."

This would not of course preclude the inclusion of such other material in the resolutions, not inconsistent with this approval, as is appropriate for each legislative body. Because of certain procedural requirements the resolutions submitted to the Senate and House of Commons should probably contain the text of the Proclamation itself as well as the Charter.

It is hoped that this stage in the process might be completed by March of 1972.

The United Kingdom Enactment

After resolutions of approval have been adopted by legislative bodies in Canada, the Prime Minister of Canada would advise the Governor General to request of Her Majesty that a measure be placed before the United Kingdom Parliament.

In the view of the Government of Canada, this measure should include the following elements.

The preamble should include:

(i) a reference to the approval expressed by legislative bodies in Canada of the Canadian Constitutional Charter;

(ii) a recognition of the right of Canada to make provision for these changes in the Constitution of Canada;

(iii) a reference to the request and consent of Canada with respect to this enactment.

The body of the statute should include:

(i) a recognition of the validity of the Canadian Constitutional Charter;

(ii) a termination of all remaining legislative authority which the United Kingdom Parliament now has with respect to Canada;

(iii) a provision that the enactment will come into force on the day fixed by the Governor General's Proclamation for the coming into force of the Canadian Constitutional Charter.

It would appear that the only United Kingdom statute requiring alteration to effect repatriation - or perhaps, more strictly "patriation" - of the Canadian Constitution would be the Statute of Westminster, 1931. The following sections of that statute should be repealed for this purpose: section 4 as it applies to Canada, and section 7(1). The Government of Canada would prefer to include these among the sections of various statutes repealed by Article 54 of the Canadian Constitutional Charter (the most recent draft of which is attached).

It is hoped that, once approval of the Canadian Constitutional Charter has been given in both Houses of the Parliament of Canada and in the provincial legislatures, and a formal request is made by the Government of Canada for legislation by the United Kingdom Parliament, such legislation can proceed as soon as possible.

The Proclamation of the Governor General

As agreed at the Working Session in February, the final stage would be the proclamation of the Governor General, issued in his name, and under the Great Seal of Canada. It would probably be issued soon after the passage of the United Kingdom statute.

The Proclamation, after making appropriate reference to the changes as having been effected by the chosen representatives of the Canadian people, would proclaim the Canadian Constitutional Charter which would form an Annex to it. The Charter and the United Kingdom statute would be designed to come into force at the same time.

Result

From the day of the coming into force of these instruments the Constitution of Canada (as modified thereby) will continue as before but it will be fully amendable in Canada by the new amending procedure, and there will no longer be any formal authority of the United Kingdom Parliament to alter it in any respect.

Attach. (1)