

VICTORIA CHARTER

1 — Political rights

Art. 1. It is hereby recognized and declared that in Canada every person has the following fundamental freedoms:

Freedom of thought, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly and of association; and all laws shall be construed and applied so as not to abrogate or abridge any such freedom.

Art. 2. No law of the Parliament of Canada or the legislatures of the provinces shall abrogate or abridge any of the fundamental freedoms herein recognized and declared.

Art. 3. Nothing in this part shall be construed as preventing such limitations on the exercise of the fundamental freedoms as are reasonably justifiable in a democratic society in the interests of public safety, order, health or morals, of national security, or of the rights and freedoms of others, whether imposed by the Parliament of Canada or the legislature of a province, within the limits of their respective legislative powers, or by the construction or application of any law.

Art. 4. The principles of universal suffrage and free democratic elections to the House of Commons and to the legislative assembly of each province are hereby proclaimed to be fundamental principles of the constitution.

Art. 5. No citizen shall, by reason of race, ethnic or national origin, colour, religion or sex, be denied the right to vote in an election of members to the House of Commons or the legislative assembly of a province, or be disqualified from membership therein.

Art. 6. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House and no longer, subject to being sooner dissolved by the governor general, except that in time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by the Parliament of Canada if the continuation is not opposed by the votes of more than one-third of the members of the House.

Art. 7. Every provincial legislative assembly shall continue for five years from the day of the return of the writs for the choosing of the legislative assembly, and no longer, subject to being sooner dissolved by the lieutenant-governor, except that when the government of Canada declares that a state of real or apprehended war, invasion or insurrection exists, a provincial legislative assembly may be continued if the continuation is not opposed by the votes of more than one-third of the members of the legislative assembly.

Art. 8. There shall be a session of the Parliament of Canada and of the legislature of each province at least once in every year, so that 12 months shall not intervene between the last sitting of the Parliament or legislature in one session and its first sitting in the next session.

Art. 9. Nothing in this part shall be deemed to confer any legislative power on the Parliament of Canada or the legislature of any province.

2 — Language rights

Art. 10. English and French are the official languages of Canada having the status and protection set forth in this part.

Art. 11. A person has the right to use English and French in the debates of the Parliament of Canada and of the legislatures of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, Prince Edward Island and Newfoundland.

Art. 12. The statutes and the records and journals of the Parliament of Canada shall be printed and published in English and French; and both versions of such statutes shall be authoritative.

Art. 13. The statutes of each province shall be printed and published in English and French, and where the government of a province prints and publishes its statutes in one only of the official languages, the government of Canada shall print and publish them in the other official language; the English and French versions of the statutes of the provinces of Quebec, New Brunswick and Newfoundland shall be authoritative.

Art. 14. A person has the right to use English and French in giving evidence before, or in any pleading by process in the Supreme Court of Canada, any courts established by the Parliament of Canada or any court of the provinces of Quebec, New Brunswick and Newfoundland, and to require that all documents and judgments issuing from such courts be in English or French, and when necessary a person is entitled to the services of an interpreter before the courts of the other provinces.

Art. 15. An individual has the right to the use of the official language of his choice in communications between him and the head or central office of every department and agency of the government of Canada and of the governments of the provinces of Ontario, Quebec, New Brunswick, Prince Edward Island and Newfoundland.

Art. 16. A provincial legislative assembly may, by resolution, declare that any part of articles 13, 14, and 15 that do not expressly apply to that province shall apply to the legislative assembly, and to any of the provincial courts and offices of the provincial departments and agencies according to the terms of the resolution, and thereafter such parts shall apply to the legislative assembly, courts and offices specified according to the terms of the resolution; and any right conferred under this article may be abrogated or diminished only in accordance with the procedure prescribed in article 50.

Art. 17. A person has the right to the use of the official language of his choice in communications between him and every principal office of the departments and agencies of the government of Canada that are located in an area where a substantial proportion of the population has the official language of his choice as its mother tongue, but the Parliament of Canada may define the limits of such areas and what constitutes a substantial proportion of the population for the purposes of this article.

Art. 18. In addition to the rights provided by this part, the Parliament of Canada and the legislatures of the provinces may, within their respective legislative jurisdictions, provide for more extensive use of English and French.

Art. 19. Nothing in this part shall be construed as derogating from or diminishing any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this part with respect to any language that is not English or French.

3 — Provinces and Territories

Art. 20. Until modified under the authority of the constitution of Canada, Canada consists of 10 provinces, named Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan, Alberta and Newfoundland, two territories, named the Northwest Territories and the Yukon territory, and such other territory as may at any time form part of Canada.

Art. 21. There shall be a legislature for each province consisting of a lieutenant-governor and a legislative assembly.

4 — Supreme Court of Canada

Art. 22. There shall be a general court of appeal for Canada to be known as the Supreme Court of Canada.

Art. 23. The Supreme Court of Canada shall consist of a chief justice to be called the chief justice of Canada, and eight other judges, who shall, subject to this part, be appointed by the governor general in council by letters patent under the great seal of Canada.

Art. 24. Any person may be appointed a judge of the Supreme Court of Canada who, after having been admitted to the bar of any province, has, for a total period of at least 10 years, been a judge of any court in Canada or a barrister or advocate at the bar of any province.

Art. 25. At least three of the judges of the Supreme Court of Canada shall be appointed from among persons who, after having been admitted to the bar of the province of Quebec, have, for a total period of at least 10 years, been judges of any court of that

province or of a court established by the Parliament of Canada or barristers or advocates at that bar.

Art. 26. Where a vacancy arises in the Supreme Court of Canada and the attorney-general of Canada is considering a person for appointment to fill the vacancy, he shall inform the attorney-general of the appropriate province.

Art. 27. When an appointment is one falling within article 25 or the attorney-general of Canada has determined that the appointment shall be made from among persons who have been admitted to the bar of a specific province, he shall make all reasonable efforts to reach agreement with the attorney-general of the appropriate province, before a person is appointed to the court.

Art. 28. No person shall be appointed to the Supreme Court of Canada unless the attorney-general of Canada and the attorney-general of the appropriate province agree to the appointment, or such person has been recommended for appointment to the court by a nominating council described in article 30, or has been selected by the attorney-general of Canada under article 30.

Art. 29. Where after the lapse of 90 days from the day a vacancy arises in the Supreme Court of Canada, the attorney-general of Canada and the attorney-general of a province have not reached agreement on a person to be appointed to fill the vacancy, the attorney-general of Canada may inform the attorney-general of the appropriate province in writing that he proposes to convene a nominating council to recommend an appointment.

Art. 30. Within 30 days of the day when the attorney-general of Canada has written the attorney-general of the province that he proposes to convene a nominating council, the attorney-general of the province may inform the attorney-general of Canada in writing that he selects either of the following types of nominating councils:

(1) A nominating council consisting of the following members: The attorney-general of Canada or his nominee and the attorneys-general of the provinces or their nominees:

(2) A nominating council consisting of the following members: The attorney-general of Canada or his nominee, the attorney-general of the appropriate province or his nominee and a chairman to be selected by the two attorneys-general, and if within six months from the expiration of the 30 days they cannot agree on a

chairman, then the chief justice of the appropriate province, or if he is unable to act, the next senior judge of his court, shall name a chairman; and if the attorney-general of the province fails to make a selection within the 30 days above referred to, the attorney-general of Canada may select the person to be appointed.

Art. 31. When a nominating council has been created, the attorney-general of Canada shall submit the names of not less than three qualified persons to it about whom he has sought the agreement of the attorney-general of the appropriate province to the appointment, and the nominating council shall recommend therefrom a person for appointment to the Supreme Court of Canada; a majority of the members of a council constitutes a quorum, and a recommendation of a majority of the members at a meeting constitutes a recommendation of the council.

Art. 32. For the purpose of articles 26 to 31 "appropriate province" means, in the case of a person being considered for appointment to the Supreme Court of Canada in compliance with article 25, the province of Quebec, and in the case of any other person being so considered, the province to the bar of which such person was admitted, and if a person was admitted to the bar of more than one province, the province with the bar of which the person has, in the opinion of the attorney-general of Canada, the closest connection.

Art. 33. Articles 26 to 32 do not apply to the appointment of the chief justice of Canada when such appointment is made from among the judges of the Supreme Court of Canada.

Art. 34. The judges of the Supreme Court of Canada hold office during good behaviour until attaining the age of 70 years, but are removable by the governor general on address of the Senate and House of Commons.

Art. 35. The Supreme Court of Canada has jurisdiction to hear and determine appeals on any constitutional question from any judgment of any court in Canada and from any decision on any constitutional question by any such court in determining any question referred to it, but except as regards appeals from the highest court of final resort in a province, the Supreme Court of Canada may prescribe such exceptions and conditions to the exercise of such jurisdiction as may be authorized by the Parliament of Canada.

Art. 36. Subject to this part, the Supreme Court of Canada shall have such further appellate jurisdiction as the Parliament of Canada may prescribe.

Art. 37. The Parliament of Canada may make laws conferring original jurisdiction on the Supreme Court of Canada in respect of such matters in relation of the laws of Canada as may be prescribed by the Parliament of Canada, and authorizing the reference of questions of law or fact to the court and requiring the court to hear and determine the questions.

Art. 38. Subject to this part, the judgment of the Supreme Court of Canada in all cases is final and conclusive.

Art. 39. Where a case before the Supreme Court of Canada involves questions of law relating to the civil law of the province of Quebec, and involves no other question of law, it shall be heard by a panel of five judges, or with the consent of the parties, four judges, at least three of whom have the qualifications described in article 25, and if for any reason three judges of the court who have such qualifications are not available, the court may name such ad hoc judges as may be necessary to hear the case from among the judges who have such qualifications serving on a superior court of record established by the law of Canada or of a superior court of appeal of the province of Quebec.

Art. 40. Nothing in this part shall be construed as restricting the power existing at the charter of a provincial legislature to provide for or limit appeals pursuant to its power to legislate in relation to the administration of justice in the province.

Art. 41. The salaries, allowances and pensions of the judges of the Supreme Court of Canada shall be fixed and provided by the Parliament of Canada.

Art. 42. Subject to this part, the Parliament of Canada may make laws to provide for the organization and maintenance of the Supreme Court of Canada, including the establishment of a quorum for particular purposes.

5 — Courts of Canada

Art. 43. The Parliament of Canada may, notwithstanding anything in the constitution of Canada, from time to time provide for the constitution, maintenance, and organization of courts for the better administration of the laws of Canada, but no court established pursuant to this article shall derogate from the jurisdiction of the Supreme Court of Canada as a general court of appeal for Canada.

6 — Revised Section 94A

Art. 44. The Parliament of Canada may make laws in relation to old age pensions and supplementary benefits including survivors and disability benefits irrespective of age, and in relation to family, youth, and occupational training allowances, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter.

Art. 45. The government of Canada shall not introduce a bill in the House of Commons in relation to a matter described in article 44 unless it has, at least 90 days before such introduction, advised the government of each province of the substance of the proposed legislation and requested its views thereon.

7 — Regional disparities

Art. 46. The Parliament and government of Canada and the legislatures and governments of the provinces are committed to:

(1) The promotion of equality of opportunity and well being for all individuals in Canada;

(2) The assurance, as nearly as possible, that essential public services of reasonable quality are available to all individuals in Canada; and

(3) The promotion of economic development to reduce disparities in the social and economic opportunities for all individuals in Canada wherever they may live.

Art. 47. The provisions of this part shall not have the effect of altering the distribution of powers and shall not compel the parliament of Canada or legislatures of the provinces to exercise their legislative powers.

8 — Federal-provincial consultations

Art. 48. A conference composed of the prime minister of Canada and the first ministers of the provinces shall be

called by the prime minister of Canada at least once a year unless, in any year, a majority of those composing the conference decide that it shall not be held.

9 — Amendments to constitution

Art. 49. 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 any time before the issue of such proclamation had, according to any previous general census, a population of at least 25 percent 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 50 per cent of the population of all the western provinces.

Art. 50. 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.

Art. 51. An amendment may be made by proclamation under article 49 or 50 without a resolution of the Senate authorizing the issue of the proclamation if within 90 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 90 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 90 days.

Art. 52. The following rules apply to the procedures for amendment described in articles 49 and 50:

(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.

Art. 53. The Parliament of Canada may exclusively make laws from time to time amending the constitution of Canada, in relation to the executive government of Canada and the Senate and House of Commons.

Art. 54. In each province the legislature may exclusively make laws in relation to the amendment from time to time of the constitution of the province.

Art. 55. Notwithstanding articles 53 and 54, the following matters may be amended only in accordance with the procedure in article 49:

(1) The office of the Queen, of the governor general and of the lieutenant-governor;

(2) The requirements of the constitution of Canada respecting yearly sessions of the Parliament of Canada and the legislatures;

(3) The maximum period fixed by the constitution of Canada for the duration of the House of Commons and the legislative assemblies;

(4) The powers of the Senate;

(5) The number of members by which a province is entitled to be represented in the Senate, and the residence qualifications of senators;

(6) The right of a province to a number of members in the House of Commons not less than the number of senators representing the province;

(7) The principles of proportionate representation of the provinces in the House of Commons prescribed by the constitution of Canada; and

(8) Except as provided in article 16, the requirements of this charter respecting the use of the English or French language.

Art. 56. The procedure prescribed in article 49 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.

Art. 57. In this part, "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.

10 — Modernization of constitution

Art. 58. The provisions of this charter have the force of law in Canada notwithstanding any law in force on the day of its coming into force.

Art. 59. The enactments set out in the first column of the schedule, hereby repealed to the extent indicated in the second column thereof, shall continue as law in Canada under the names set forth in the third column thereof and as such shall, together with this charter, collectively be known as the constitution of Canada, and amendments thereto shall henceforth be made only according to the authority contained therein.

Art. 60. Every enactment that refers to an enactment set out in the schedule by the name in the first column thereof is hereby amended by substituting for that name the name in the third column thereof.

Art. 61. The court existing on the day of the coming into force of this charter under the name of the Supreme Court of Canada shall continue as the Supreme Court of Canada, and the judges thereof shall continue in office as though appointed under Part iv except that they shall hold office during good behaviour until attaining the age of 75 years, and until otherwise provided pursuant to the provisions of that part, all laws pertaining to the court in force on that day shall continue, subject to the provisions of this charter.

Appended to the draft charter are three pages comprising a schedule of outdated sections of the British North America Act which would be repealed.