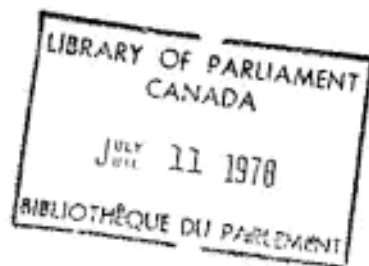


Highlights of the Constitutional Amendment Bill 1978



Office of
The Prime Minister

Cabinet du
Premier Ministre

PRIME MINISTER INTRODUCES BILL
TO AMEND CANADIAN CONSTITUTION

Prime Minister Trudeau has introduced a bill in the House of Commons to implement proposed changes in the Constitution of Canada, as promised in last week's policy paper entitled A Time for Action.

Constitutional reform is to be carried out in two phases: Phase I will cover matters under federal jurisdiction and Phase II will cover areas in which co-operation and consent of the provinces are required.

"It is not the intention of the Government to ask Parliament to pass the bill at its current session," the Prime Minister said. "The intention is to refer the subject matter of the bill to a joint committee of the Commons and Senate, and for the Government to have intensive discussions with the provinces, including a conference of First Ministers expected to take place in the fall.

"Thus, the purpose of the bill is to serve as a basis for public, parliamentary and intergovernmental discussion in the months ahead. The Government feels that by putting forward its proposals in detailed, legislative form the process of public examination can be more sharply focussed and the timetable for final passage expedited".

In the bill, the Government sets out in legislative detail how it plans to proceed with such major changes as replacement of the present Senate by a House of the Federation; reorganization of the Supreme Court of Canada; the establishment of a Charter of Rights and Freedoms; improved mechanisms for consultation with the provinces; a constitutional definition of the role of the Prime Minister and Cabinet, and strengthening of the office of Governor General.

The proposed new Constitution also, for the first time, would contain a Preamble and Statement of Aims, defining the principles of nationhood and the national goals of Canadians.

Following are highlights of the main elements in the proposed Constitutional Amendment Act 1978:

House of the Federation

- The Western Provinces and the Atlantic Region would have greater representation than they do in the present Senate. Quebec and Ontario would each retain their present 24 members in the Upper House. Western representation would increase to 36 from the present 24; the Atlantic region would have 32 seats, up from 30.
- Total membership in the House of the Federation would be 118. Of these, 58 would be selected by the federal Government and 58 by the provinces.
- All major political parties would be represented in the new House, on the basis of popular vote in each province. The federal government would appoint members after each federal election, while the representatives of the provinces would be named after provincial elections.
- The House of the Federation would have power to delay legislation passed by the Commons, and would be able to initiate legislation of its own, except for money bills.
- The new House would be asked to approve appointments to the Supreme Court and to some Crown agencies.
- A special provision to safeguard language rights would require that any measure deemed to have "linguistic significance" be passed by a majority of English-speaking and a majority of French-speaking members of the new House.

The Supreme Court

- The bill would expand the number of judges from nine to 11. There would be four from the Quebec Bar rather than the present three. Of the remaining seven positions there would have to be at least one from each of four regions: the Atlantic, Ontario, the Prairies and British Columbia.
- The provinces would be consulted before judges are appointed. In the absence of agreement, appointments would be made by a nominating council. All appointments would be subject to approval by the House of the Federation.
- On matters concerning Quebec civil law, only the judges from Quebec would make rulings.

Federal-provincial relations

- An annual meeting of First Ministers would become a constitutional requirement (enshrining in law what has become current practice).
- The federal government would consult the provinces before appointing lieutenant-governors.
- Certain federal payments to the provinces may be made constitutionally binding, thus protecting them from sudden and arbitrary termination.
- The federal government would consult with the provinces before invoking its seldom-used "declaratory power", under which it may bring any work or project under federal jurisdiction.

Office of the Governor General

- The Governor General would exercise prerogatives, functions and authority in his own right, as Canadian head of state. However, the Queen would remain as always the sovereign head of Canada, and exercise her full powers when in Canada.

The Council of State

- The present Privy Council would become the Council of State, a title which reflects more clearly its function.

The Federal Cabinet

- For the first time, the functions of the Prime Minister and Cabinet would be spelled out in the Constitution, recognizing them as vital elements in the system of government.

Charter of Rights and Freedoms

- The proposed charter would be binding on the federal government, Parliament and all federal institutions as soon as it becomes law. It would become binding on the provinces as and when they see fit to "opt in". Joint action by federal and provincial governments would be required to have the charter entrenched and beyond the power of any single government to change unilaterally.
- Among rights proposed in the bill are freedom of movement within Canada, and freedom from discrimination by reason of race, ethnic origin, color, religion, sex, language or age.
- Citizens belonging to an official language minority would have the right to choose the minority language for education of their children, where the number of children warrants the provision of minority language schools.
- Identifiable English-speaking and French-speaking communities anywhere in Canada would be protected from reduction of existing rights and practices.
- Persons giving evidence would have the right to use French or English before the Supreme Court or any federal court; before the courts of Quebec, Ontario and New Brunswick, and in any court dealing with a criminal matter or an offence under a provincial law that might result in imprisonment.

The proposed legislation would also add a new section to the Constitution, reaffirming the red and white maple leaf flag as the flag of Canada, O Canada as the national anthem, and God Save the Queen as the royal anthem. Canada's motto "A mari usque ad mare" (From sea to sea) would also be written into the Constitution.

The Prime Minister reaffirmed the Government's intention to have the first phase of the constitutional amendment process completed by July 1, 1979, and the second phase by 1981.