



Section 6

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MOBILITY RIGHTS

Compilation of primary documents to assist in interpreting the public meaning of Section 6 of the *Constitution Act, 1982*

Second Edition: July 2023

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SECTION 6
Mobility Rights

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July, 2023



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The Constitution Act, 1982
Part I. Canadian Charter of Rights and Freedoms
Mobility Rights

Mobility of citizens

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

Rights to move and gain livelihood

Section 6(2) *Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right*

- (a) to move to and take up residence in any province; and*
- (b) to pursue the gaining of a livelihood in any province.*

Limitation

Section 6(3) *The rights specified in subsection (2) are subject to*

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

Affirmative action programs

Section 6(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.*

PART 1:

Drafting History of the Charter of Rights and Freedoms Pertaining to Section 6's Public Meaning

Drafts of the Charter of Rights and Freedoms:

January 8, 1979: Canadian Charter of Rights & Freedoms, Federal Draft, tabled at Meeting of Officials on the Constitution, (January 11-12, 1979)

July 4, 1980: Rights and Freedoms within the Canadian Federation, Discussion Draft, Tabled at the Continuing Committee of Ministers on the Constitution (July 8-11, 1980)

August 22, 1980: The Canadian Charter of Rights and Freedoms, Federal Draft, Tabled at the Continuing Committee of Ministers on the Constitution (August 26-29, 1980)

August 28, 1980: Charter of Rights and Freedoms, Report to Ministers by Sub-Committee Officials [Provincial Draft], Tabled at the Continuing Committee of Ministers on the Constitution (August 26-29, 1980)

September 3, 1980: The Charter of Rights and Freedoms, Revised Discussion Draft, Federal, tabled at the Federal-Provincial First Ministers' Conference (September 8-12, 1980)

October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen Respecting the Constitution of Canada

January 12, 1981: Draft submitted to the Special Joint Committee on the Constitution of Canada

February 13, 1981: Draft Tabled in House of Commons from the Special Joint Committee on the Constitution [Final Report]

April 23, 1981: House of Commons Draft, used in *Reference Re: Resolution to Amend the Constitution*

November 18, 1981: House of Commons Draft

November 24, 1981: House of Commons Draft

November 26, 1981: House of Commons Draft

December 2, 1981: House of Commons Draft & Vote

Statutes and International Agreements:

1960: An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms (The Canadian Bill of Rights)

1978: Bill C-60: An Act to amend the Constitution of Canada

[*This section is incomplete*]

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Drafts of the Charter of Rights and Freedoms

January 8, 1979: Canadian Charter of Rights & Freedoms, Federal Draft, tabled at Meeting of Officials on the Constitution, (January 11-12, 1979)

12. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has been lawfully admitted to Canada for permanent residence and has not lost the status of a permanent resident has the right
- (a) to move and to take up residence in any province or territory, and
- (b) to pursue the gaining of a livelihood in any province or territory without distinction based on province or territory of previous residence or domicile.

(Source: Meeting of Officials on the Constitution, *Canadian Charter of Rights & Freedoms, Federal Draft*, [January 8, 1979] (Ottawa: 11-12 January, 1979). Click [HERE](#))

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July 4, 1980: Rights and Freedoms within the Canadian Federation, Discussion Draft, Tabled at the Continuing Committee of Ministers on the Constitution (July 8-11, 1980)

Mobility Rights

8. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has been lawfully admitted to Canada for permanent residence and has not lost the status of a permanent resident has the right
- a) to move and to take up residence in any province or territory, and
- b) to acquire and hold property in, and to pursue the gaining of livelihood in, any province or territory,
- subject to any laws of general application in force in that province or territory other than any such laws that discriminate among persons to whom this provision applies primarily on the basis of province or territory of present or previous residence or domicile.
- (3) The rights declared by this section may be made subject only to such limitations prescribed by law as are reasonably justifiable in a free and democratic society in the interests of national security, public safety, order, health or morals

(Source: Meeting of the Continuing Committee of Ministers on the Constitution, *Rights and Freedoms within the Canadian Federation, Discussion Draft*. Tabled by the Delegation of the Government of Canada, 4 July 1980, Doc 830-81/027 (Montreal: 8-11 July 1980). Click [HERE](#))

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August 22, 1980: The Canadian Charter of Rights and Freedoms, Federal Draft, Tabled at the Continuing Committee of Ministers on the Constitution (August 26-29, 1980)

16. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident has the right
- (a) to move to and take up residence in any province; and
- (b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to 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.

(Source: Continuing Committee of Ministers on the Constitution, *The Canadian Charter of Rights and Freedoms, Federal Draft*, [August 22, 1980] Doc 830-84/004 (Ottawa: 26-29 August 1980). Click [HERE](#))

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August 28, 1980: Charter of Rights and Freedoms, Report to Ministers by Sub-Committee Officials [Provincial Draft], Tabled at the Continuing Committee of Ministers on the Constitution (August 26-29, 1980)

[The Provinces (officials) suggested that the whole issue of Mobility Rights, if in the constitution, should be elsewhere than in the Charter of Rights.]

(Source: Continuing Committee of Ministers on the Constitution, *Charter of Rights, Report to Ministers by Sub-Committee of Officials*, Annex [August 28, 1980], Doc 830-84/031 (Ottawa: 26-29 August, 1980). Click [HERE](#))

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September 3, 1980: The Charter of Rights and Freedoms, Revised Discussion Draft, Federal, tabled at the Federal-Provincial First Ministers' Conference (September 8-12, 1980)

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

- (2) Everyone in Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any other laws referred to in subsections (4) or (5) of section 121 of the British North America Act.

(Source: Federal-Provincial First Ministers' Conference, *The Canadian Charter of Rights and Freedoms, Revised Discussion Draft, Federal*, [September 3, 1980] Doc 800-14/064 (Ottawa: 8-12 September 1980). Click [HERE](#))

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen Respecting the Constitution of Canada

- 6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

(Source: Canada, Parliament, "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" in *Sessional Papers* (1980). Click [HERE](#))

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January 12, 1981: Draft submitted to the Special Joint Committee on the Constitution of Canada

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 36 (12 January 1981). Click [HERE](#))

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February 13, 1981: Draft Tabled in House of Commons from the Special Joint Committee on the Constitution [Final Report]

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 57 [Final Report] (13 February 1981). Click [HERE](#))

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April 23, 1981: House of Commons Draft, used in Reference Re: Resolution to Amend the Constitution

- 6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

(Source: Canada, *House of Commons Debates*, 32nd Parl, 1st Sess, 1981 at 9470-9471. Click [HERE](#))

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November 18, 1981: House of Commons Draft

- 6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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

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

(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.

(Source: Canada, *House of Commons Debates*, 32nd Parl, 1st Sess, 1981 at 12983-13011. Click [HERE](#))

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November 24, 1981: House of Commons Draft

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

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

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

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

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

(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

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

(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.

(Source: Canada, *House of Commons Debates*, 32nd Parl, 1st Sess, 1981 at 4128-4130. Click [HERE](#))

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November 26, 1981: House of Commons Draft

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

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

- (a) to move to and take up residence in any province; and
- (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.
- (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.

(Source: Canada, *House of Commons Debates*, 32nd Parl, 1st Sess, 1981 at 13338-13346. Click [HERE](#))

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December 2, 1981: House of Commons Draft & Vote

- 6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - (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
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.
- (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.

(Source: Canada, *House of Commons Debates*, 32nd Parl, 1st Sess, 1981 at 13632-13663. Click [HERE](#))

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Statutes and International Agreements

1960: An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms (The Canadian Bill of Rights), ([HERE](#))

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

(a) authorize or effect the arbitrary detention, imprisonment or exile of any person;

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June 20, 1978: Bill C-60: An Act to amend the Constitution of Canada

7. In addition to the fundamental rights and freedoms declared by section 6, it is further declared that, in Canada, every individual shall enjoy and continue to enjoy:

— the right to be secure against unreasonable searches and seizures;

— the right not to be arbitrarily detained, imprisoned or exiled;

[...]

(c) Rights Within Canada of Canadian Citizens

8. Every citizen of Canada, wherever the place of his or her residence or domicile, previous residence or domicile, or birth, has

--the right to move to and take up residence in any province or territory of Canada, and in consequence thereof to enjoy the equal protection of the law within that province or territory in the matter of his or her residence therein; and

--the right to acquire and hold property in, and to pursue the gaining of a livelihood in, any province or territory of Canada;

subject to any laws of general application in force in that province or territory but in all other respects subject only to such limitations on his or her exercise or enjoyment of those rights as are

reasonably justifiable otherwise than on the basis of the place of his or her residence or domicile,
previous residence or domicile, or birth

(Source: Bill C-60, An Act to amend the Constitution of Canada with respect to matters coming within the legislative authority of the Parliament of Canada, and to approve and authorize the taking of measures necessary for the amendment of the Constitution with respect to certain other matters, 3rd Sess, 30th Parl, SC, 1978 (June 20, 1978). Click [HERE](#))

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PART 2:**The Primary Record (Debates, Papers, Committees...) Pertaining to Section 6's Public Meaning**

May 29, 1972: Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada, Final Report, Recommendations ([HERE](#))

February 5-6, 1979: Federal Draft Proposal, Federal-Provincial Conference of First Ministers on the Constitution ([HERE](#))

July 4, 1980, Continuing Committee of Ministers of the Constitution, Powers over the Economy, Federal (click [HERE](#)), p. 2

July 5, 1980, Continuing Committee of Ministers of the Constitution, Background Notes, Charter of Rights and Freedoms (click [HERE](#)), p. 2

July 8, 1980, Continuing Committee of Ministers of the Constitution, Opening Statement by the Honourable Jean Chretien (click [HERE](#)), p. 2

July 9, 1980, Continuing Committee of Ministers of the Constitution, Statement by the Honourable Jean Chretien (click [HERE](#)), p. 1

July 9, 1980, Continuing Committee of Ministers of the Constitution, Powers over the Economy: Securing the Economic Union in the Constitution, (click [HERE](#)), pp. 2, 5

July 8-11, 1980, Continuing Committee of Ministers of the Constitution, The Charter of Rights, Quebec's Position, (click [HERE](#)), p. 3

July 11, 1980, Debate in the House of Commons (click [HERE](#)), p. 2799

July 22-25, 1980, Continuing Committee of Ministers of the Constitution, Powers over the Economy: Options Submitted for Consideration by the Government of Canada to Safeguard the Canadian Economic Union in the Constitution (click [HERE](#)), pp. 1, A:1

July 22-25, 1980, Continuing Committee of Ministers of the Constitution, Powers over the Economy: Securing the Canadian Economic Union in the Constitution, Discussion Paper Submitted by the Government of Saskatchewan (click [HERE](#)), pp. 2, 3, 4, 5, 8, 9

September 8, 1980, Federal-Provincial Conference of First Ministers on the Constitution, Transcript of the Prime Minister's Statement at the First Ministers Conference, (click [HERE](#)), p.3

September 8-13, 1980, Federal-Provincial Conference of First Ministers on the Constitution, Summary Record of Proceedings (click [HERE](#)), p. 29, 41

October 6, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3286, 3309

October 7, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3334-5, 3341, 3360-1

October 8, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3396 & 3403

October 9, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3570-1

October 10, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3575

October 10, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3597-9, 3608-9

October 15, 1980, Debate in the House of Commons (click [HERE](#)), p. 3704

October 16, 1980, Debate in the House of Commons (click [HERE](#)), p. 3762

October 17, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3795, 3800

October 20, 1980, Debate in the House of Commons (click [HERE](#)), p. 3834

October 20, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3851 & 3859

October 21, 1980, Debate in the House of Commons (click [HERE](#)), pp. 3885-6

October 22, 1980, Debate in the House of Commons (click [HERE](#)), p. 3928

- October 22, 1980**, Debate in the House of Commons (click [HERE](#)), p. 3944
- October 23, 1980**, Debate in the House of Commons (click [HERE](#)), pp. 3928, 3988, 4002, 4008, 4010, 4017, 4021, & 4024-6
- October 23, 1980**, Debate in the Senate, (click [HERE](#)), pp. 944-5
- November 12, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 3 (click [HERE](#)), pp. 31, 47, 66
- November 13, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 4 (click [HERE](#)), p. 120
- November 14, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 5 (click [HERE](#)), pp. 19, 22
- November 17, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 6 (click [HERE](#)), p. 35
- November 18, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 7 (click [HERE](#)), p. 87
- November 19, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 8 (click [HERE](#)), pp. 6, 12, 18, 87
- November 20, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 9 (click [HERE](#)) pp. 78, 82, 90
- November 21, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 10 (click [HERE](#)), p. 23
- November 25, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 12 (click [HERE](#)), pp. 60, 66, 70, 74
- November 26, 1980**, Debate in the House of Commons (click [HERE](#)), p. 5088
- November 27, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 14 (click [HERE](#)), pp. 31, 35, 45, 46, 48
- December 1, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 16 (click [HERE](#)), p. 11
- December 2, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 17 (click [HERE](#)) pp. 18, 46, 85
- December 3, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 18 (click [HERE](#)), pp. 14, 28, 34, 36
- December 4, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 19 (click [HERE](#)), pp. 28, 34
- December 4, 1980**, Debate in the House of Commons (click [HERE](#)), pp. 5316-7
- December 5, 1980**, Debate in the House of Commons (click [HERE](#)), pp. 5409 & 5418, 5437
- December 8, 1980**, Debate in the House of Commons (click [HERE](#)), p. 5478
- December 16, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 27 (click [HERE](#)), pp. 65, 86
- December 18, 1980**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 29 (click [HERE](#)), pp. 22, 149, 154, A:8
- January 6, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 32 (click [HERE](#)), p. 13
- January 7, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 33 (click [HERE](#)), pp. 135, 139, 152
- January 8, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 34 (click [HERE](#)), p. 56
- January 8, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 38 (click [HERE](#)), p. 89

- January 16, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 39 (click [HERE](#)), p. 12
- January 22, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 43 (click [HERE](#)), pp. 12, 116
- January 23, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 44 (click [HERE](#)), p. 121
- January 27, 1981**, Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, Issue 46 (click [HERE](#)), pp. 7, 72, 82, 87, 94, 97, 100, 101
- February 6, 1981**, Debate in the House of Commons (click [HERE](#)), p. 6996
- February 17, 1981**, Debate in the House of Commons (click [HERE](#)), p. 7403
- February 18, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 7445 & 7449
- February 26, 1981**, Debate in the House of Commons (click [HERE](#)), p. 7746
- March 3, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 7843-4
- March 5, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 7932, 7952
- March 11, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 8133 & 8143
- March 11, 1981**, Debate in the Senate (click [HERE](#)), pp. 2002-3
- March 12, 1981**, Debate in the House of Commons (click [HERE](#)), p. 8201
- March 13, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 8229 & 8244
- March 16, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 8278, 8287-8
- March 19, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 8415, 8426
- April 2, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 8907, 8908-9
- April 13, 1981**, Debate in the House of Commons (click [HERE](#)), p. 9204
- April 21, 1981**, Debate in the House of Commons (click [HERE](#)), p. 9360
- May 21, 1981**, Debate in the House of Commons (click [HERE](#)), p. 9796
- November 4, 1981**, Debate in the House of Commons (click [HERE](#)), p. 12490
- November 2-5, 1981**, Federal-Provincial Conference of First Ministers on the Constitution, A New Brunswick Proposal to Obtain Wider Support for the Constitutional Resolution (click [HERE](#)), p. 3
- November 5, 1981**, Federal-Provincial Conference of First Ministers on the Constitution, Verbatim Transcript (click [HERE](#)), pp. 93, 99, Appendix p. 1
- November 5, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 12537-8
- November 20, 1981**, Debate in the House of Commons (click [HERE](#)), p. 13043
- November 23, 1981**, Debate in the House of Commons (click [HERE](#)), p. 13134
- November 24, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 13210, 13213, 13224
- November 25, 1981**, Debate in the House of Commons (click [HERE](#)), p. 13283
- November 26, 1981**, Debate in the House of Commons (click [HERE](#)), p. 13360
- November 30, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 13505, 13525
- December 1, 1981**, Debate in the House of Commons (click [HERE](#)), pp. 13600-5
- December 7, 1981**, Debate in the Senate (click [HERE](#)), pp. 3310
- March 18, 1982**, Debate in the House of Commons (click [HERE](#)), p. 15616

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May 29, 1972: Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada, Final Report, Recommendations ([HERE](#))

Another omission from the Victoria Charter relates to citizenship. In Canada, a nation of immigrants, it is entirely fitting that the Constitution should provide that citizenship, once legally acquired, should be inalienable.

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1978: Canada, The Constitutional Amendment Bill, 1978: Explanatory Document (click [HERE](#)), then scroll to p. 12¹

What are the “new” rights or freedoms in the Charter?

Several important new rights are included, for example, with respect to the use of the English and French languages in Canada. Freedom of conscience and of thought have been added to the traditional freedom of religion. Protection against unreasonable searches and seizures and against the retroactive application of criminal sanctions has been added. **The right of Canadian citizens to move from province to province, to own property and to work in another province would also be guaranteed for the first time.** The right to vote and to stand for elective office without discrimination would be expressly assured as well. [Emphasis is ours]

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February 5-6, 1979: Federal Draft Proposal, Federal-Provincial Conference of First Ministers on the Constitution ([HERE](#))

E. Mobility Rights

1. Right of citizen to enter, remain in and leave Canada.
2. Right of citizen or “landed immigrant” to change province of residence or to pursue livelihood in another province, subject to laws of general application, but without discrimination based only on province of present previous residence.

Limitation Clause

Those prescribed by law as are reasonably justifiable in a free and democratic society in the interests of – national security – public safety, order, health or morals – overriding economic or social considerations.

Override Clause

None

¹ This is merely an explanatory document for Bill C-60, which is found in Part 1 of this report.

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July 4, 1980: Continuing Committee of Ministers of the Constitution, Powers over the Economy, Federal (click [HERE](#)), then scroll to p. 2

There is also the possibility of using the Charter of Rights to accomplish some part of this economic objective. In Section 8 of its [Bill C-60](#) of 1978 the federal government proposed a right of mobility for every citizen of Canada that would contribute substantially to the strengthening of the common market for labour throughout Canada, and for professional services as well.

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July 5, 1980: Continuing Committee of Ministers of the Constitution, Background Notes, Charter of Rights and Freedoms² (click [HERE](#)), then scroll to p. 2

Mobility Rights

(Section 8 of the Discussion Draft)

The Mobility Rights contained in the discussion draft of the Charter assure citizens of Canada the constitutional right to enter, remain in and leave the country. Moreover, this section gives all Canadian citizens and permanent residents the right to establish

[Page 3]

themselves in any province of Canada, and to acquire property and pursue employment in any province of Canada. This section would reduce barriers to mobility of people and their participation in the benefits of Canadian federalism.

What is being proposed in this section is that every Canadian citizen and permanent resident of Canada should enjoy basic rights throughout the country, without discrimination based upon a province of residence or province of birth.

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July 8, 1980: Continuing Committee of Ministers of the Constitution, Opening Statement by the Honourable Jean Chretien (click [HERE](#)), then scroll to p. 2

Our view is that the discussion of powers, particularly economic powers, should be very much a two-way process of give and take. We recognize and are sympathetic to the importance which a number of provinces attach to exercising increased powers in areas such as resources, offshore

² For the draft itself, see Part 1 of this report.

resources, fisheries and communications. But we also have priorities which we believe to be vital for the people of Canada. A very good example of this, and one which we will be discussing under the heading of powers over the economy, is the importance which we attach to maintaining a true economic union — a Canadian market free of interprovincial barriers to the mobility of labour, capital, services and goods.

As the government responsible for the overall management of the Canadian economy, we have become increasingly concerned about the barriers to interprovincial trade and mobility of labour which some governments have put in effect, or threatened to put into effect, in recent years. We therefore believe, as part of this constitutional bargaining process over powers of government, that governments, both federal and provincial should agree to eliminate such barriers to interprovincial trade. In addition, we believe that Canadians would be better served if the federal government expanded some of its existing powers in the area of economic management, for example, powers which would better enable us to fight inflation.

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July 9, 1980: Continuing Committee of Ministers of the Constitution, Statement by the Honourable Jean Chretien (click [HERE](#)), then scroll to p. 1

Non-Discrimination Rights, Mobility Rights and Property Rights are also included in the draft Charter. I am aware that these categories have not, in the past, been supported by the majority of provinces. However, we feel these are necessary. Constitutional guarantees are required to protect Canadians against unjustified discrimination. Barriers must be removed to ensure that our citizens can move freely in their own country, and it seems fair that we guarantee to Canadians that property rights will be safeguarded.

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July 9, 1980: Continuing Committee of Ministers of the Constitution, Powers over the Economy: Securing the Economic Union in the Constitution, (click [HERE](#)), then scroll to p. 2

There may be circumstances, of course when the pursuit of other political, social, economic and cultural goals justifies some restriction of the economic freedom of Canadians. But the freest possible access to the national market should be inherent to Canadian citizenship, and therefore secured in the Constitution. Any provincial authority should bear in mind that whenever it discriminates against residents of other provinces, it exposes its own residents to retaliatory discrimination by the governments of these other provinces; and whenever it seeks to retain the ability to restrict the mobility of other provinces' residents, it simultaneously argues that the freedom of its own residents should be subject to curtailment by nine other governments. As for the federal authority, while it would be imprudent to limit its ability to meet the varying needs and aspirations of different parts of the country in a differentiated way, it should always be aware that such use of its powers can be quite contentious since it inevitably raises difficult problems of interpersonal and interregional equity.

[...]

[Page 5]

2. Arrangements Between States

The aspects of multilateral and regional economic arrangements of greatest interest of Canadian constitutional renewal are their fundamental principles and objectives. In addition, it is useful to review how major issues are dealt with, such as government aids and incentives, government procurement, technical regulations, public enterprises, commodity trade and the mobility of labour, capital and enterprise.

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July 8-11, 1980: Continuing Committee of Ministers of the Constitution, The Charter of Rights, Quebec's Position, (click [HERE](#)), then scroll to p. 3

For example, the federal draft proposes to entrench the freedom of citizens to move about from one province to another. No one, and least of all Quebec, objects to this freedom as a general principle. But when one considers its meaning, implications, and consequences, a problem

[Page 4]

arises. This freedom might mean that Quebec could, for example, be prevented from controlling entry into the professions, as it does now, on the ground that Quebec regulations were more restrictive than those of other provinces and hence interfered with mobility. Similarly, entrenching the freedom of movement could lead to the standardization of educational systems across Canada, because differences among systems could be interpreted as barriers to mobility.

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July 11, 1980, Debate in the House of Commons, p. 2799 (click [HERE](#))

Concerning: Mobility Rights – Employment, Residence; Mobility rights, goods, and services

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July 22-25, 1980: Continuing Committee of Ministers of the Constitution, Powers over the Economy: Options Submitted for Consideration by the Government of Canada to Safeguard the Canadian Economic Union in the Constitution (click [HERE](#)), then scroll to p. 1

In a Discussion Paper submitted to the Continuing Committee of Ministers on the Constitution on July 9, 1980(1), the Government of Canada outlined three techniques which could be used to safeguard the Canadian economic union in the Constitution:

- (i) entrenching the mobility rights of citizens in the proposed Charter of Rights;
- (ii) subjecting the exercise of legislative and executive powers to the provisions of a revised Section 121 of the B.N.A. Act;
- (iii) clarifying and, to a limited extent, broadening the federal trade and commerce power.

Federal proposals regarding mobility rights of citizens are contained in Section 8 of the proposed Canadian Charter of Rights and Freedoms tabled on July 10, 1980. A copy of that section is attached. Legislative drafts tabled today, and also attached, outline a manner in which the other two techniques might be implemented.

[...]

The new Section 121 would not seek to prohibit all possible impediments to economic mobility, since the federal government recognizes that the Canadian Federation has other goals — political, social, cultural, as well as economic — the pursuit of which must not be restricted by too sweeping provisions regarding economic mobility. Accordingly, the suggested legislative text would provide for exceptions, so that the principle of non-discrimination would be applied in a flexible manner.

[...]

[Page A1]

ANNEX A

MOBILITY RIGHTS

8. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has been lawfully admitted to Canada for permanent residence and has not lost the status of a permanent resident has the right
- (a) to move to and take up residence in any province or territory, and
 - (b) to acquire and hold property, and to pursue the gaining of a livelihood in, any province or territory, subject to any laws of general application in force in that province or territory other than any such laws that discriminate among persons to whom this provision applies primarily on the basis of province or territory of present or previous residence or domicile.

(3) The rights declared by this section may be made subject only to such limitations prescribed by law as are reasonably justifiable in a free and democratic society in the interests of national security, public safety, order, health or morals.

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July 22-25, 1980: Continuing Committee of Ministers of the Constitution, Powers over the Economy: Securing the Canadian Economic Union in the Constitution, Discussion Paper Submitted by the Government of Saskatchewan (click [HERE](#)), then scroll to p. 2

Indeed, the realities are stated rather well on p.25 of the discussion paper (830-81/036) as follows:

“...provisions to secure the Canadian economic union will have to allow governments to pursue other social and economic goals, such as redistribution of income and wealth among citizens and the fostering of economic development in lagging areas of the country.”

and continuing in the next paragraph:

“...provincial legislation and regulations must be capable of variation from province to province, and such variation will inevitably cause some impediments to economic mobility; but these must be kept within the bounds of necessity.”

The federal proposal then makes a major leap to assert that there must be significant safeguards secured constitutionally to prohibit discriminatory actions against persons, goods, services, and capital on a provincial basis. As well, federal regulatory powers would be enlarged so as to deal with other unwarranted obstacles to economic mobility within Canada. Only as a third approach does the federal government suggest co-operative arrangements among governments.

This federal view has led to the presentation of suggested wording for Section 8 of a proposed Charter of Rights and for new sections 121, 91(2) and (2.1) of the B.N.A. Act.

3. CONCERNS WITH THE FEDERAL VIEW

There is little need to debate many of the facts presented by the federal discussion paper. There is no doubt that barriers to mobility of factors of production and goods do exist in Canada and that all orders of government — as well as many other institutions — contribute to this situation. It is also likely that our economic efficiency could be improved with the removal of some of the barriers.

[...]

[Page 3]

a) A Crisis? Apparently Not.

The need for constitutional safeguards against barriers to mobility has been expressed in language — “a priority; “a sense of urgency”; “critical” — suggesting a crisis is developing.

The details of the proposed changes have come to us very late in the process of constitutional review. As well, there has not been, to our knowledge, an agenda item for Finance or First Ministers entitled “barriers to mobility” or “the economic union”.

[...]

[Page 4]

b) Extent of Effort to Improve Mobility

We have not been able to establish the extent to which section 121 in particular would invalidate provincial laws and regulations.

On the one hand, we are assured that “the new provisions would not prevent affirmative action programs, regional development policies, industrial incentives, income redistribution, etc.”.

Conversely, however, the federal discussion paper on pages 19 to 21 lines up for potential rehabilitation an awesome array of provincial government initiatives including, for example:

- subsidies and tax incentives to producers;
- provincial monopolies; and,
- labour standards.

If indeed the objective of the federal proposal is to improve mobility within Canada, then one must consider the total impact of numerous institutions and practices in Canada and not simply the explicit barriers.

Surely the levels of corporate, personal and other taxes in any province have a far greater impact on the mobility of resources than some of the barriers such as purchasing policy that are apparently under attack.

Surely, the national tariff and transportation policies have an immeasurably greater impact on relative prices, rates of return and ultimately the location choice for capital and labour.

[Page 5]

We see the federal aim being taken at the explicit barriers that obviously impede movements among the provinces. The “big” economic levers such as tax rates, tariff and transportation policies, would not be brought into question. But, these major economic levers are precisely the forces having the greatest impact on the mobility of resources and products in Canada. And, the richest provinces have the greatest capacity to use such instruments to attract business away from other provinces. The only defence available to a small province may be to take action which creates barriers to protect their competitive position within the economic union — and these would be struck down instantly by the proposed section 121.

The only obvious safeguard is to maintain a continuing sense of co-operation in Canada. Providing “safeguards” against some explicit barriers only changes the rules of the game — in favour of some — but it does little to safeguard the economic union.

[Page 8]

But, we do not deny the importance of avoiding unnecessary impediments to mobility that reduce our economic efficiency.

Nor do we deny the need to implement “safety” systems that focus on squeezing such unnecessary barriers out of the system.

The Canadian Constitution should not contain the rules that govern the extremely complicated trade-offs between oft-times conflicting economic objectives of responsible governments.

Doing so would require political leaders to relinquish much of their authority to the courts — an entirely unacceptable change in our concept of responsible government.

The Government of Saskatchewan would prefer to see more faith in the co-operative spirit of responsible governments working towards a mutually acceptable economic union given the problems of the day.

Certainly there will be conflicts and trade-offs. Certainly barriers to mobility will exist that are not seen to be useful by all jurisdictions.

But responsible governments working with the on-going objective of improving the economic union can and should make these trade-offs and resolve the conflicts. Such economic decisions should not be made in the hushed chambers of the Canadian Courts.

We would see as preferable an option that places in the constitution a statement of commitment by the federal government and the provincial governments to the effective operation of the economic union. Such an approach could be similar to the one being considered for equalization.

This commitment could include a reference to an on-going review by federal and provincial Ministers to ensure that government policies are harmonized to enhance our economic union. Such an approach could deal not only with the explicit barriers to mobility, on which the federal approach concentrates, but also with governmental spending, taxation and structural policies that serve to influence the mobility of resources in our federation.

[Page 9]

How, you might ask, will such a co-operative approach resolve real differences of opinion among governments?

The question, of course, includes the answer. Only by working co-operatively towards harmonized programs and policies can governments minimize unnecessary barriers to mobility while still achieving various, and sometimes conflicting, social and economic objectives.

The alternative, the federal approach, would delegate much of the authority to the courts and would lead to an attitude of “how can we get around the law” rather than facing up to the need to co-operate.

The assumption in the federal approach seems to be that provinces are (or more correctly, will become) extremely naive and fail to recognize the costs related to a destructive competition among provinces for development. It is admitted in the federal discussion paper “that enlightened self-interest has largely prevailed so far”. We see no reason why “enlightened self-interest” will not prevail in the future.

In brief, we must commit ourselves to the concept of continually reviewing our economic union. We must, however, have faith in the co-operative spirit of present and future governments. Responsible governments cannot relinquish to the courts their job of managing the economic union.

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September 8, 1980: Federal-Provincial Conference of First Ministers on the Constitution, Transcript of the Prime Minister’s [Pierre Trudeau] Statement at the First Ministers Conference, (click [HERE](#)), then scroll to p.3

As we will see when we discuss this item later, it is worth noting that in Canada we don’t even have the protections against economic discrimination between provinces or economic mobility between provinces that exist not only in the European Common Market, but exist in the rules set up by the general agreement on tariffs and trade between sovereign nations so in this sense we are not asking for more powers. It is not a power grab for the Canadian government. It is an attempt to have us all recognize that it is to the benefit of us all that people in Canada can move, that capital can move, that services can move and of course that goods can move without hinderance between one province and another so that we can indeed be an economic union.

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September 8-13, 1980: Federal-Provincial Conference of First Ministers on the Constitution, Summary Record of Proceedings (click [HERE](#)), then scroll to p. 29

130. Six governments gave their views on the sections pertaining to Mobility Rights:

1. In answer to Ontario's apprehension concerning the possibility that Section 14(3) (a) might be used to strike down provincial legislation regarding self-governing professions, Mr. Trudeau assured Ontario that this was not the intention of the draft. He suggested a redrafting of the section.
2. Prince Edward Island expressed its opposition to Section 16(2) (b) of the previous draft affecting the provinces' right to make laws restricting ownership and use of land. Prince Edward Island indicated that it would insist on the inclusion of a non obstante clause if the draft at hand was accepted by other governments. Canada indicated that it considered Prince Edward Island's point

concerning a non obstante clause to be a constructive one. New Brunswick expressed its support for Prince Edward Island's position.

3. Newfoundland reiterated that it was not prepared at that time to support the entrenchment of anything other than Fundamental Freedoms and Democratic Rights. It suggested that discussion of sections 6 onward be set aside and continued among governments over the next several weeks or months until such time as some sort of consensus could be reached. Newfoundland stressed that certain affirmative action programs were essential for a province's development and that national goals could not be allowed to extinguish equally laudable regional goals.

4. Alberta indicated that it had received the revised document that morning and therefore had difficulty discussing Mobility Rights at this time. Additionally, Alberta preferred to reserve on the question of whether rights of this nature should be in the constitution until the discussion on "Powers over the Economy".

5. New Brunswick suggested that an attempt could be made to approach the drafting of mobility provisions in a more contemporary manner as opposed to a reliance on restrictive legal wording. If Mobility Rights were set down as a guidepost, as something to be worked toward, a greater degree of agreement might be achieved.

6. Canada expressed sympathy with the concerns expressed by Newfoundland and New Brunswick and suggested that certain problems could be solved by redrafting. However, it appeared that governments would have fewer difficulties with wording concerning the division of powers; there was more difficulty with wording when it came to protecting the rights of citizens.

p. 30

157. Mr. Bennett stated that while the principle of freedom of movement of goods, services, capital and people sounded laudable, governments had to balance that principle against regional realities. He stressed the fact that Canada was not a compact, homogeneous country; its uniqueness posed a number of problems not amenable to a central solution. Mr. Bennett went on to assert that despite the phasing-in of GATT tariff reductions, federal policies would continue to impose a burden on western consumers of non-competitive manufactured goods produced in Central Canada. In this regard, he echoed the comments of others regarding discriminatory freight rates. Not only had British Columbia been deprived of the opportunity to establish a manufacturing base comparable to Ontario's, but British Columbia, like Ontario, had to make equalization payments to other provinces. He argued that because of this state of affairs, the people of his provinces suffered a "double grievement". He also highlighted the federal government's refusal to recognize British Columbia's dividend tax credit on the grounds that it was discriminatory. In a similar vein, he noted the criticism directed at his government because of its opposition to Canadian Pacific's bid to acquire control of MacMillan Bloedel. He argued that both measures were designed to strengthen the economy of British Columbia, but not at the expense of the rest of Canada. He maintained that the federal natural gas export tax would constitute a form of discrimination stemming from the extraction of "astronomical" revenues from only two provinces. With respect to the mobility rights of Canadians, Mr. Bennett asserted that migration from other parts of Canada to British Columbia demonstrated his province's commitment to the protection of those rights. He concluded by stating that the principles enunciated in the federal proposals, however laudable,

could not be used to frustrate the aspirations of "have" and "have-not" provinces, alike. Because of this, Mr. Bennett rejected the federal proposals.

p. 41

162. Mr. Blakeney outlined a number of legal points concerning proposed amendments to Section 91 that required clarification. Aside from some difficulties with legal wording, he expressed general support for the federal proposals in the areas of competition and product standards. With respect to the regulation of trade and commerce, his government had reservations concerning the inclusion of the ambiguous term "capital" in the proposed new subsection intended to clarify the phrase "regulation of trade and commerce". The use of the word "capital" could similarly create difficulties with respect to existing provincial control of Caisse populaires and Credit Unions. Accordingly, until these concerns had been resolved, the Saskatchewan government was not prepared to agree to the federal proposals with respect to trade and commerce. Concerning mobility rights, Mr. Blakeney thought it inappropriate to incorporate in a charter rights for corporations to buy and sell assets. With respect to the broader issues raised by Section 121, he underlined his province's wish to secure and improve the economic union, but not to the exclusion of all other economic and social goals. He noted that not all measures that would restrict the mobility of labour were bad, notable examples being affirmative action programs and unemployment insurance. He noted that the only factors impeding the mobility of people, goods, services and capital touched upon by the federal proposal concerning Section 121 were those defined in terms of provincial boundaries, whereas in reality there existed an extensive list of items which impeded the economic union. He asserted that the concept of an economic union was, in a sense, a mythical one, because perfect competition did not exist. He argued that a code of permissible practices was required. Therefore, First Ministers should not agree to insert in the constitution the federal proposal concerning Section 121 but should instead simply agree to inserting a provision indicating their pursuit of an economic union, and possibly include in their agreement any further steps to be taken in this regard. Mr. Blakeney made a final point concerning the courts. He maintained that federal attempts to allay fears concerning the possible vulnerability of certain laws passed in his province were pointless, because under the federal proposals, judges would be making those decisions. He expressed his misgivings about the fact that judges would be called upon increasingly to make decisions in new and controversial social areas.

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October 6, 1980, Debate in the House of Commons, pp. 3286, 3309 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Jean Chrétien, p. 3286

Mr. Chrétien: [...] Our conception of Canada is one where citizens as a matter of right should be free to take up residence and to pursue a livelihood anywhere in Canada without discrimination based on the previous province of residence. In other words, no Canadian should be prevented from seeking a job anywhere in Canada merely on the grounds that he or she comes from another province. This right which is inherent in Canadian citizenship will be enshrined in the charter and will be binding on all governments.

This does not mean that provinces cannot impose their normal laws on people who come or move to their province. It simply means that they cannot single out certain Canadians for harsher treatment just because they come from other parts of the country. In other words, there will be one Canadian citizenship not ten provincial citizenships.

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October 7, 1980, Debate in the House of Commons, pp. 3334-5, 3341, 3360-1 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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October 8, 1980, Debate in the House of Commons, pp. 3396 & 3403 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (3403); Newfoundland (3396)

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October 9, 1980, Debate in the House of Commons, pp. 3570-1 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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October 10, 1980, Debate in the House of Commons, pp. 3575 (click [HERE](#))

Concerning: Mobility Rights—Provincial laws, affecting (3575); Mobility rights, goods, and services (3575)

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October 10, 1980, Debate in the House of Commons, pp. 3597-9, 3608-9 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (3597-9, 3608-9); Provincial labour laws affecting (3598-9); Mobility rights, goods, and services (3598-9)

Roy MacLaren, p. 3597

Mr. MacLaren: [...] I want to speak about one of the principal rights that is guaranteed in the new constitution, the right of every Canadian to live and to work for himself or herself in any part of Canada and to provide for his or her family in any part of Canada in which he or she chooses to live. In doing so I shall emphasize the importance of these rights to each and every Canadian. They are as well rights designed to encourage the economic integration of the Canadian union in a highly competitive world.

Mobility rights are important to every Canadian. Indeed, most Canadians would assume that they have the right to move about their country and to live and work where they will.

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October 15, 1980, Debate in the House of Commons, p. 3704 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Yvon Pinard, p. 3704

Mr. Pinard: [...] The other category of rights to be included in the constitution concerns the freedom to move to and settle in any area. It is quite essential that every Canadian, in whatever province, have the right and the freedom to enter and leave any province when he wishes and that every Canadian from whatever area and whatever province be entitled to earn his living in any province without being penalized and without being the victim of any discrimination. This is another category of rights which we want to see entrenched in the constitution and which protect Canadian citizens without penalizing the provincial governments.

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October 16, 1980, Debate in the House of Commons, p. 3762 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Aideen Nicholson, p. 3762

Miss Nicholson: I am very pleased to see the concept of mobility rights included in this charter. All citizens, as a matter of right, should be free to live and work anywhere in Canada without discrimination based on the previous province of residence. The situation which we have seen recently of one province refusing employment to Canadians who come from another province is indeed a serious matter. It is understandable, perhaps, that in times of some economic difficulty people become self-protective and more narrow and parochial in their views, but that is all the more reason to have mobility rights entrenched in the constitution to help us maintain our normal generous, open characteristics in difficult times and to remind us that we have one Canadian citizenship, not ten provincial citizenships.

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October 17, 1980, Debate in the House of Commons, pp. 3795, 3800 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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October 20, 1980, Debate in the House of Commons, p. 3834 (click [HERE](#))

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October 20, 1980, Debate in the House of Commons, pp. 3851 & 3859 (click [HERE](#))
Concerning: Mobility Rights—Mining Industry (3859); Newfoundland (3851)

Bryce Mackasey, p. 3851

Mr. Mackasey: [...] I can remember one very angry union leader asking me, “Is it really a big step from a work permit by the minister of manpower of a particular province to the day when we are going to need permits to travel across this country”? Is it all that far-fetched to think that the next step will be the need for visas to travel from one province to another?” Intelligent and concerned Canadians see this trend toward balkanization. They wonder about it and ask, “What are we going to do about it?” When the Premier of Newfoundland and—I do not want to belabour him—stresses and emphasizes his dilemma, on the one hand, of providing jobs for the people of his province in the flourishing oil industry in Newfoundland, and the problem of denying access to those jobs to Canadians of other provinces, this is not a reassuring situation. The issue, for instance, of owning land anywhere in Canada by Canadians is another problem—

Bryce Mackasey, p. 3852

Mr. Mackasey: [...] Is anyone here against mobility rights?

An hon. Member: What about freedom of property?

Mr. Mackasey: What about the democratic right which gives people the opportunity to speak from their seats? That is part of it, so I am not going to let the member worry me, Mobility rights? It is perhaps the most important right we can have at the moment, the right to work anywhere in this country in any province.

An hon. Member: What about free enterprise?

Mr. Mackasey: The right to establish ourselves and seek employment anywhere, the right to remain in Canada or leave the country, minority language educational rights which provide that citizens of the English-speaking or French-speaking minority of a province have the right to educate their children in that minority language, wherever numbers warrant—what is so important about that, Mr. Speaker? It is extremely important. [...]

Judy Erola, p. 3859

Mrs. Erola: [...] Since the release of this proposal we have heard ominous statements of gloom and impending doom. There is concern in some provincial capitals that certain clauses of the new constitution will deprive them of their protectionist attitudes and practices. To this argument I can only say that this is Canada; we do not require internal passports in this country or papers and dossiers to travel from region to region, to work in one part or the other. This is Canada, a free land; a land where every Canadian is given the choice to choose his or her residence, occupation and lifestyle.

I have been behind the Iron Curtain where checkpoints are established on all access roads to cities to control the movement, not just of visitors, but of their own people. They do not enjoy freedom

of mobility. To deprive our citizens of their freedom to live and work unhindered in any region of Canada is clearly an unacceptable option. Democracy demands better.

As a mother of two young people and through my contact with other young people, I am continually encouraged by their openness and candour. Something that young Canadians have done a great deal of—and I applaud them for it—is travelling. Every summer we see them on the road, from Newfoundland to British Columbia, discovering their country—discovering places in which they might like to live and work in the future. It is difficult to explain to them the artificial barriers to their mobility that have been created by narrow regionalism.

I met with several senior mining industry officials in Ottawa over a week ago and the first thing that they commented on to me was the importance of the mobility clause to the future of the mining industry. Unfortunately it seems that some of the provincial premiers—and some hon. members opposite—think industry can operate in a vacuum. I must inform them that it cannot

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October 21, 1980, Debate in the House of Commons, pp. 3885-6 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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October 22, 1980, Debate in the House of Commons, p. 3928 (click [HERE](#))

Concerning: Mobility Rights—Mobility rights, goods, and services

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October 22, 1980, Debate in the House of Commons, p. 3944 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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October 23, 1980, Debate in the House of Commons, pp. 3928, 3988, 4002, 4008, 4010, 4017, 4021, & 4024-6 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (4008, 4017, 4021, 4024-6); British Columbia, affecting (4010); Newfoundland (3982, 3988, 4002)

Bill Rompkey, p. 3928

Mr. Rompkey: Yet, certainly the effect of the present provincial regulations would be to confine our people to the province.

Surely if Newfoundland would keep other Canadians out, it stands to reason other provinces would be forced to keep out Newfoundlanders. The outcome of that policy would be to balkanize, to build walls, to restrict Canadians to a region. This is clearly wrong. This country belongs to all

of us; not just a part of the country but all of Canada. Each of us should be free to move and to settle in any part.

John Crosbie, p. 3988

Mr. Crosbie: What about this labour mobility, this terrible thing that the Newfoundland government is trying to do? The Minister of National Revenue said that the Newfoundland people have gone all over the world to work. Yes, Mr. Speaker, but that is not a freedom; it is because they have been forced out of their own island, out of their own province to get jobs because they cannot get them there. That is not a freedom. It is tyranny that men have to leave their families for six months, nine months or twelve months to go to the Yukon or Ontario or Quebec, or somewhere else in the world, to work because they cannot get work at home. That is why the Peckford government has got this regulation that applies only to the offshore. That is not freedom. But it is freedom we want in Newfoundland—freedom to grow and develop. That has been forgotten on the other side that has forgotten Newfoundland.

David Smith, p. 4002

Mr. Smith: Another provision in the charter has to do with mobility rights. This is something we had not talked about until recent years. It is rather a new idea and a new concept but I submit that mobility rights are needed because barriers have unfortunately been springing up which are stopping people from one part of the country from getting jobs in other parts of the country. That is certainly not what I understand a country to be about.

Pat Carney, p. 4010

Miss Carney: This defining of Canada in terms of the self-interest of central Canada is evident in our tariff policies which protect eastern industries and limit the growth of western ones. It is evident in our transportation policies which discriminate against western products. It is evident in the concept, proposed by the Liberals, of mobility of labour. Mobility of labour is attractive in a province such as Ontario where 10,000 people recently applied for 1,000 jobs. But in Vancouver mobility of labour means the migration of 4,000 people a month to British Columbia. Mobility of labour means that every \$85,000 house is selling for a quarter of a million dollars. It means that British Columbians are being priced out of a chance to own their own homes in their own cities. Mobility of labour means that native Canadians who need the time to learn the skills to participate in job opportunities which are opening to them will be denied that right. The freedom to move should at least be matched by their freedom to stay.

Some hon. Members: Hear, hear!

Miss Carney: This country was built on the mobility of labour. We used to call it simply “going west”. One hundred years ago, my own grandmother, Brigit Casey, left this very valley, not 16 miles from here, to go west to homestead and to ranch. She and her kinfolk, the Tierneys and the McKennas and the O’Keefes, did not go west to build a second-class province as the government proposes. And their kinswoman did not return to this valley as the MP for Vancouver Centre to enshrine in our Canadian Constitution a secondary role for B.C. or for any province of Canada.

Some hon. Members: Hear, hear!

Miss Carney: This country was built on the mobility of labour. It was also built on fairness. You cannot enshrine one concept, the freedom to move, without enshrining equality.

Russell MacLellan, p. 4017

Mr. MacLellan: [...] As to the question of whether this proposed resolution is necessary, I say that it is, particularly with regard to the charter of rights and freedoms. We need not look any further than the mobility rights provision. What can be more fundamental and necessary to this country than this fundamental right to move and to take up residence in any province and to seek a livelihood there without discrimination based on provincial boundaries? Yet this right is being threatened by these very same provinces. They are placing their desire for power above the welfare of the citizens of this country.

John Gamble, p. 4025

Mr. Gamble: [...] One should read that section. Section 6.(2) allegedly grants relief, but one should read on to see what section 6.(3) indicates. It provides that none of the prohibitions set forth in subsection (2) shall be rendered unenforceable unless the purpose was primarily a discriminatory one designed to discriminate against the former province of the intended applicant for a position or job. The hon. member who raised this issue should have studied the law of the province of Quebec. He would have discovered that in fact this is the very justification the government uses to offend the principle this is supposed to correct. Section. 6 protecting mobility rights is a sham and a fraud. It will not protect Canadians, and they should be made aware of that.

Pierre Savard, p. 4026

Mr. Savard: [...] Let us consider the right to economic mobility for our citizens across the country. What will happen to the right to life and liberty if we cannot move to or settle, work or invest in the province of our choice? Without this freedom, will our system become like those of totalitarian countries? As we know, the citizens of communist countries do not enjoy these rights; they don't even exist. In Russia, travel from one state to another requires a permit from the central government. Personally, I say that Canadians, in our country, have no intention of adopting this way of life, and on their behalf, I insist that this freedom, the right to mobility, be retained, because Canada is a free country from sea to sea.

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October 23, 1980, Senator Olson, Flynn, Smith, Frith, Murray, and Roblin, Debate in the Senate, pp. 944-5 (click [HERE](#))

Concerning: Mobility Rights

Senator Olson: Then we get to mobility rights. I believe that the citizens of Canada have the right, or ought to have the right, to enter, to remain and to leave Canada. I believe that every citizen of Canada ought to have the right to move and to take up residence in any part of Canada.

Senator Flynn: They have that right now.

Senator Olson: But this says “any province.” I also believe that every Canadian ought to have the right to earn a livelihood in any province, and that has been challenged by some of the provinces. They have set up some rules that limit the right of Canadian citizens to move anywhere, and to seek gainful employment, in this country.

Hon. G.I. Smith: Pursuant to the Constitution.

Senator Olson: Well, pursuant to the Constitution. This is a right that is going to be entrenched in the Constitution, and obviously has not been either severe or strict enough to be applied.

None of the honourable gentlemen opposite wants to argue that Canadian citizens should not have that right. It can be seen that they are not willing to do that.

Senator Smith: Who says they are not willing to do that?

Senator Olson: Are you willing to argue that Canadian citizens should not have the right to seek employment anywhere in this country? Of course not.

Senator Smith: You wait and see.

Senator Flynn: You want to impose that on the provinces.

Hon. Royce Frith (Deputy Leader of the Government): Perhaps we should wait and see what the speaker has to say about that.

Senator Olson: Well, we should wait and see what they have to say about it, but I just don't believe, honourable senators, that the opposition is going to say that they are opposed to Canadians being able to move anywhere they like in this country.

Senator Flynn: I didn't say that.

Senator Olson:—and to seek gainful employment wherever they like in this country. That is a fundamental freedom that I believe every Canadian citizen is entitled to. That's what's here.

I don't think anybody is particularly opposed to some of the other legal rights that are spelled out in this matter. There are some, for example, respecting non-discrimination, which I endorse completely, but I realize that it will take some time for all of the provinces and, indeed, perhaps even the federal Parliament, to search out and amend some of the statutes that are on the books now so that those non-discrimination rights can be taken out. So there is a provision that that would not become applicable for three years, in order to provide time to make that search and to make the amendments.

Then there are the official languages of Canada.

Senator Flynn: Then there is no urgency.

Senator Olson: Well, the honourable Leader of the Opposition wants to make a lot of contributions to my speech. I am not discouraging that—I think he should go ahead—but I would like him also to participate in this debate so that we can hear what his views are. So far, despite its having been called every day, he has refrained. To use another word, he has so far

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boycotted this debate, and I think that that is unfortunate because I know he would make a great contribution. I also believe he is not doing as good a service to Canada by refraining from participating in this debate.

Senator Flynn: Don't you worry about that.

Senator Olson: I remember very clearly that the members opposite were asking for some opportunity to participate in the discussion about the matters that are in that resolution.

Senator Flynn: No, not accurate.

Senator Olson: And then, when an opportunity is provided, they refrain from participating.

Senator Flynn: You are mistaken.

Senator Olson: That I don't understand.

Senator Smith: You don't understand it because it isn't true.

Senator Olson: Oh, no, it is true all right. **Senator Smith:** It is not true.

Senator Frith: It's the kind of truth that hurts.

Senator Olson: I would like to turn to another aspect of this, honourable senators, and that is that I think we have a responsibility in this chamber to examine just what it is we are protecting. Why do we need

Senator Smith: Or giving.

Senator Olson:--this kind of action taken by the federal Parliament of Canada which, of course, includes both houses? And that is very simple to me.

Senator Flynn: It has to be.

Senator Olson: I believe there is some value to Canadian citizenship. As a matter of fact, when I compare the values that we have—and I could spell them out, if you like—such as the respect for human beings and for human dignity, and the respect for our structure of law and order which, even though it may not be perfect, is, in my view, better than that of any other country in the world.

Senator Flynn: That's why we don't need that.

Senator Olson: And that is why, when we find a trend towards restricting the rights of Canadian citizenship along provincial boundaries, we have a responsibility to stop and to reverse that trend.

You can argue that it may not be serious yet, but there are some trends that are extremely serious to me. One of them we have just talked about, and that is the trend towards restricting the right of a Canadian citizen to seek gainful employment anywhere he chooses in this country. I don't like that trend. There are some other restrictions with respect to investment and the ownership of land, for example, in more than one part of this country. I think that there ought to be some rules perhaps on the use of some of those assets, but I tell you very frankly that I do not accept that those rights ought to be confined to residents within a province. For example —

Senator Flynn: You are changing the Constitution in this respect, aren't you, because there is a decision of the Supreme Court with respect to the restrictions in Prince Edward Island with regard to ownership of land. It has been declared *intra vires* of the legislation of Prince Edward Island.

Senator Frith: Order.

Senator Flynn: I am not talking to you.

Senator Olson: I was talking about some of the trends that are taking place in this country in the way of setting up different rules for different people because they happen to live within a provincial boundary.

Hon. Lowell Murray: That is not covered by your resolution.

Senator Olson: It is covered in my concern over the trends that are taking place in this country.

Senator Murray: It is not in your resolution.

Hon. Duff Roblin: No, it is not.

Senator Olson: Take it as you like. We are demonstrating that we are going to set up some rights that belong to all Canadian citizens no matter where they live.

Senator Smith: No matter whom they take them from.

Senator Olson: Oh, no.

Senator Smith: Oh, yes.

Senator Olson: Rights don't necessarily restrict somebody else. Rights are something that cannot be violated by any government in this country.

Senator Smith: You are trying to take away from the provinces the jurisdiction and authority they now have under the Constitution.

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November 12, 1980: Senator Lucier & Jean Chrétien, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 3, then scroll to p. 31)

Senator Lucier: Mr. Minister, my questions really pertain to the Mobility Rights Clause. Clause 6 in the Bill, as they relate to the North.

I would like to start out by saying that northerners generally agree with the concept of mobility rights.

Some hon. Members: Hear, hear

Senator Lucier: In fact since only the natives were originally there, most of us are there enjoying the North because we had an opportunity to go there and to seek employment and to make our homes there.

So we do agree generally with the concept of mobility rights.

What we are concerned with is with the possibility of the northern gas pipeline with a very real probability of it being built now, there could be a very large influx of people into the North in a very short period of time, which could have a devastating effect on the people of the Yukon. I speak of the Yukon right now but I am sure that this will affect the Northwest Territories in later years.

I am wondering if something cannot be done in conjunction with Section 6 to protect the Yukon from the possibility of this influx of people coming in. The government of the Yukon Territory went to great lengths during the preparation for the pipeline to protect themselves against that type of thing happening. I am really very concerned that, for instance, the whole Yukon consists of 25,000 people, and it is not unlikely that the pipeline would bring in 25,000 people more.

That does not sound like very large numbers to the people down here, maybe, but you could compare it to 8 million people dropping into Ontario for a couple of years. I think when you look at it in that light you will find that it could have a devastating effect and I am just wondering if something could not be put in or if in some way the people of the Yukon and the people of the North could be protected against that type of thing happening.

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Mr. Chrétien: I do not know how Mr. Lucier, I am not in a position to tell you clearly how that can be done. Of course there is some limitation in terms of employment to outsiders in the construction of the pipeline in the North. I say that under this provision of mobility rights it will be possible to pass legislation that could provide for affirmative action. I think that affirmative action should not be based only on a criteria of the origin of the person. I think that would be against the law. We have to recognize the danger in the Yukon situation where there could be a huge influx of people

coming and creating the same type of social disturbance that existed in Alaska at the time of the Alaska oil pipeline.

We have some problems at this moment about this Charter of Rights and the affirmative action that exists in our own legislation. I think that we will have to study and try to find some solution. Among these solutions that were provided in this Bill was hiring for people coming from outside should be done outside, that the people will not just flock into Whitehorse and wait for a job there; and the question of training, and so on.

There are some areas there that ought to be looked into, I realize that the social impacts of short term projects like the construction of the pipe line that will last only a few years; and the stability of the society in those areas after the construction occurs, or during the construction time. We are looking into that. I am aware of your concern.

What we are seeking at this moment is to make sure that we do not limit the rights of Canadians to move across Canada and, in fact, in the Yukon most of the residents now who are not Indians have come from all parts of Canada including Windsor, Ontario.

Jean Lapierre & Jean Chrétien, p. 47

Mr. Lapierre: Mr. Minister, I would like to come back to the Canadian Charter of Rights and particularly to the section dealing with mobility rights.

As you probably know, section 6 begins with . . .

The legitimacy and the practicality of this section raise doubts and I would like you to refer to an article published in *Le Devoir* during the weekend, on Saturday, in which Dr. Camille Laurin, the Quebec Minister of Education, was reported to have said, and I quote:

If we are not cautious, the federal project could lead to a pan-Canadian standardization of the criteria for admission to the studies and the professions as well as for the statutes now established in Quebec by the members of the professions themselves.

He was then speaking to the Conseil interprofessionnel du Quebec, and he later added:

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It is inconceivable that you should give the responsibility to regulate the professions and their members to an organization which does not know the regional needs.

I know, Mr. Minister, that this speech fits very well into the famous paper called, *Le Coup de Force Constitutionnel d'Ottawa*, which has been prepared by the Canadian affairs directorate within the department of inter-governmental affairs.

In view of the fact that this has received some coverage during the weekend, several professionals are wondering whether the statutes which govern the admission to the Quebec Bar or to the Order of the Architects or to the Office de la Construction du Quebec, would be pre-empted by the new

provisions of section 6. After they heard what Dr. Laurin said. I think that many lawyers are wondering whether they should pay the next fees to the Quebec Bar or to the Canadian Bar.

I would therefore, like to have some clarification on the actual meaning of section 6 and particularly on its impact on the provincial statutes, in particular, the professional statutes.

This is my first question.

Mr. Chrétien: On your first question, Mr. Lapierre, I must tell you that section 6 does not intend to standardize the statutes which govern the professions. This is a provincial jurisdiction and it will continue to be; it means that any profession, whether it be legal, medical or other, will still be governed by provincial statutes; the terms of reference will be established by the provinces.

The only thing that section 6 does is that people who want to enter any such profession, cannot be barred from it if they are not a resident of the province; suppose that in order to become a plumber in Quebec, you must satisfy 25 conditions, any Canadian citizen who will meet those 25 conditions will be able to become a plumber in Quebec or a physician in Quebec.

There should not be a 26th condition saying: "You must also be a Quebec citizen."

The conditions will be established by the province based on the criteria which must be met within each specific profession. So, this section means that any Canadian citizen who meets those criteria may practise his career or profession in the province in question.

So, in no way is it the intention of the government to, as Mr. Laurin stated on the weekend, standardize all the professional criteria and control all professional organizations in Canada through the application of Section 6.

Mr. Lapierre: At one point in his speech, Mr. Laurin spoke of the umbrella organization under which all professions would fall. I know that in his line of work he knows what it means to have a fertile imagination but, personally, I do not see where

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that type of organization would come into play through Section 6. I get the impression that it is nothing more than imagination.

Mr. Chrétien: There is no organization provided for in Section 6. All we do there is establish the principle that there can be no discrimination against people because of their place of origin in Canada. However, they must meet all the professional criteria established in the different provinces.

Mr. Lapierre: Mr. Minister, to come back to Section 6 once again where it is stated in Paragraph 2 that every

...

Mr. Chrétien: Perhaps I might point out that Section 28 provides for the powers of organizations.

It states:

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

That includes the federal government.

Mr. Lapierre: Now, at Section 6 it is stated that:

Every citizen of Canada and every person who has the status of a permanent resident . . .
When you refer to a person having the status of a permanent resident, does that include landed immigrants?

Mr. Chrétien: The answer is yes.

Mr. Lapierre: The answer is yes.

Mr. Chrétien: They are landed immigrants. Those are the people whom we wished to cover as there is a certain period during which a person may be permanent in Canada but not yet a Canadian citizen. We would not want this charter to exclude legitimate residents of Canada who have not yet obtained their status as citizens.

Mr. Lapierre: Fine.

Now, would this section affect the legislative provisions provided in the Public Service Act which requires that people be Canadian citizens before they are employed?

Mr. Chrétien: I do not know. I will check that out and reply later.

Mr. Lapierre: That is all.

George Henderson & Jean Chrétien, p. 66

Mr. Henderson: Thank you Mr. Chairman. I just have a couple of short questions that I would like to ask the Minister through you for clarification and it is on, once again, the Charter of Rights and page 4 of this resolution. Section 6, and it is the right to move and gain livelihood, or the rights of citizens to move in the country. 6.2 states that every citizens of Canada and every person who has the status of a permanent resident of Canada has the right to (a) move and to take up residence in any province and to pursue the gaining of a livelihood in any province.

The Minister is probably aware of provincial legislation in the Province of Prince Edward Island and probably other provinces whereby the selling of land to non-residents, if you will, land over ten acres in acreage is prohibited to non-residents. Knowing that Prince Edward Island of course has a limited amount of arable land to sort of head off the speculators from especially the U.S. but in other parts of the country, this legislation was put through and I believe challenged at the Supreme Court, and the Supreme Court upheld the provincial legislation.

I notice here also that there is a qualification of becoming a resident. Could I have clarification from the Minister that there is nothing within this legislation or this package that would supersede the provincial legislation of the Province of PEI in regards to land use?

Mr. Chrétien: Mr. Henderson, we discussed that during the summer at the conferences, and the possibility that this question of owning lands in the province could be affecting the legislation of PEI in terms of people who buy lands there, absentia ownership. The way I understand it, the mobility rights will not permit absentia ownership in the case of PEI.

We are not interfering, but the way I understand it it will not supersede the provincial legislation in that matter.

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November 13, 1980: Jim Hawkes & Jean Chrétien, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 4, then scroll to p. 120)

Mr. Hawkes: [...] Can I direct your attention, because I am nearing the end of my time, to the mobility rights, Section 6(3)(b). And in that Section, sir, you say that there is an exception, that people will not be entitled to public social services. You do not say “provincial social services”, which might provide protection for budgets at one level, but you simply ask us to accept that the poor, the disadvantaged in this country who choose to move to better their position will not have the same right of access to public social services that those that are wealthy would have. It is those kinds of principles that are sprinkled throughout this Bill, that cause me considerable concern. We should never, never, sir, have a Constitution that is built on the principle that I do not know or that I do not understand.

M. Chrétien: I know very well what it is, sir,

[Translation]

And I understand quite well, that is a provision that was put in the Bill of Rights at the request of provincial governments to ensure that the passage of people from one province to another does not create undue burden upon the government of the said province. It is at the request of provincial governments who are responsible for the administration of social programs in Canada that we have put in clause (b) to sub-clause 3 concerning the rights and freedom of circulation and settling in.

So it is to maintain the most reasonable administrative norm possible that we have allowed that to the provinces before being obliged to pay for social services out of public funds to make sure that there is a minimum period of residence inside a province. That is common practice and has been established in Canada for quite a while now and it is at the request of the provinces that we decided not to, through that mobility clause,

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create confusion in the administration of social programs at the provincial level.

[Text]

Mr. Hawkes: Surely to God, Mr. Chairman, there is a difference between the word “public” and the word “province”, and surely you put careful care and attention into this Bill before you used the loyalty of those members to foist it on the Canadian public. Surely you can understand that we are governed by words in law and the words that are in the Constitution are vitally important to that social contract?

[Translation]

Mr. Chrétien: I explained why we put those words in there. It was at the request of the provincial governments for the reasons I have just set out.

[...]

Mr. Chrétien: I can answer that question, with your permission, Mr. Chairman. In our country it is the provinces who have the administrative and legislative responsibility for giving social services to our citizens. It is not the central government. So that is why when we use the word “public” it means that it applies to . . .

[Text]

Mr. Beatty: Family Allowances, Old Age Pension?

[Translation]

Mr. Chrétien: But insofar as the question of family allowances is concerned, there is no such thing as residency requirements in one or the other case, it applies generally to all Canadians. The question of residence is not a prerequisite concerning . . .

[Text]

Mr. Beatty: Unemployment insurance?

[Translation]

Mr. Chrétien: It is the same thing. Federal programs apply to all Canadians.

[Text]

Mr. Crombie: With differences from province to province. Two provinces on the family allowance . . .

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[Translation]

Mr. Chrétien: Yes, yes.

The Joint Chairman (Mr. Joyal): Order, please. order, please. All members presently taking part in this debate are on my list and will be recognized later.

[Text]

Mr. Crombie: He also said that.

The Joint Chairman (Mr. Joyal): What I say to the Honourable Members . . .

Mr. Crombie: I apologize.

The Joint Chairman (Mr. Joyal): . . . is that all those who question . . .

[Translation]

Mr. Chrétien: As for family allowances, that does apply generally because it is the same level of family allowances for all Canadians.

I believe that Mr. Crombie had a valid point when he said, concerning unemployment insurance, that there are situations which vary from one place to another in Canada depending upon the level of unemployment insurance. I recognize that point and Clause 6.3(b) would apply there.

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November 14, 1980: Gordon Fairweather (Chief Commissioner of Human Rights Commission), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 5, then scroll to p. 19)

Mr. Fairweather: I am absolutely delighted to see that mobility rights are to be enshrined. I think most people in Canada, if you ask them, would think they had mobility rights. I think this is fine. I must say it is not only Newfoundland; the province of Quebec and the Construction Act also, and anyone living in this city knows the contretemps between Hull and Ottawa construction workers that exercised Premiers, First Ministers and everybody else.

I think that there are remedies within the hands of the provinces to see to it that their people are naturally selected rather than put up barriers, and I am very excited and supportive of the mobility rights. I have said so publicly, in Parliament and as a Commissioner.

If the Maritime Provinces, from where I come, had been restricted in mobility there would have been social revolution in this country and I think it is time that people remembered that. It is a very

curious thing to think that now, when there is a little bit of change in prospect, barriers are to be put up. It sounds like medieval Europe. It is easier to get by modern Europe, for people to have jobs, than it is in some provinces.

We are totally committed to this principle and I think 99 per cent of the people of Canada are. If Alberta had ever restricted Newfoundlanders or New Brunswickers, what kind of a country would we have had, or the great receiving province of Ontario. It is not the receiving province now, but it was. Look, do we not have anything in common as citizens? Surely we have. If we have not that, we are just wasting time here.

David Crombie & Gordon Fairweather, p. 22

And I have concern with respect to the great army of programmes, federal programmes which go to provinces and I wondered if, in your own mind, that created difficulties and indeed it would inhibit mobility in relation to social programmes such as the Canada Assistance Plan, et cetera?

Mr. Fairweather: Mr. Crombie, I would much prefer that (b) was not in the act. I think that residency for the delivery of assistance in Canada and its provinces for those who need it is mean-spirited.

Mr. Crombie: Particularly in relation to federal programmes?

Mr. Fairweather: Federal programmes are cost-shared and other formulas and my bit of an outburst, I am a little embarrassed by it except that I feel things passionately, on mobility was the movement of people.

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Through the last 20 years mean-spirited regions, provinces, states in the United States, have put up residency requirements for the receipt of what is an entitlement, that I think is a poor idea.

Mr. Crombie: I appreciate your point.

Mr. Fairweather: I am sure my colleague Rita Cadieux, whose professional life has been in this area, would agree. I have not specifically asked her.

Mr. Crombie: Well, I share your views, sir. I wanted to know whether or not you regarded Section 6(3)(b) as a barrier to mobility?

Mr. Fairweather: Yes. I suspect that was part of the bargain. . .

Mr. Crombie: And ought to be changed?

Mr. Fairweather: that they tried to strike during the summer to get provincial acceptance. I do not know, that is what I suppose. I do not imagine that clause was put forward by Canada.

Mr. Crombie: Well, ought it to be changed in your view?

Mr. Fairweather: Of course it should be changed in my view.

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November 17, 1980: David Crombie & Max Yalden (Commissioner of Official Languages), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 6, then scroll to p. 34)

Mr. Crombie: Thank you.

I would like to direct your attention to Section 6 which deals with mobility rights.

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Section 6(2)(b) to be precise, allows every citizen of Canada and every person who has the status of a permanent resident of Canada the right—and this is Section 6(2)(b) to pursue the gaining of a livelihood in any province.

The concern of—if I may use an example—many French speaking Quebecers in the past has been their inability to move about the country to gain a livelihood and the problem rested on the inability to find a home both in their culture and language and in their workplace, educationally and so on.

I wonder if you felt that the provisions, both in terms of the mobility rights and in relation to their language rights, that we would have improved the situation in any way by this resolution, and, if not, is there any other change you might make?

Mr. Yalden: On this specific point, Section 6(2)(b) I would suppose that would turn out to be useful to persons whose language is the French language, moving out of Quebec and into the nine other provinces, or vice versa, in the sense that someone might, or example, go to court on the educational question we were talking about earlier.

If there were no educational facilities available, such a person might argue that he was being impeded from pursuing the gaining of a livelihood in the particular province.

How can you gain a livelihood in a province if you cannot educate your children or get any services from the government and are completely barred from living in your language? I would have thought that would provide a form of additional protection for the minority. I do not really know whether that is so in fact, because I think it is the kind of clause that lawyers are going to find to be of very intriguing effect if and when it comes before the courts.

I do not have any change to propose in respect of that type of mobility right. I did argue in respect of Section 23(2) that, by giving a mobility right in respect of a language of education in Section 23(2) and by including the citizenship requirement in Section 23(1), you could create all sorts of confusion, both administrative and human, at the family level, by various people going through

other provinces and having a right which their neighbours or relatives have not, because they went directly to a province.

I do not, in any sense, come out against a mobility right. I think the motivation to give to a person who moves to a province unequivocally the right to continue his children's education in the language in which they began is a good idea. It is both humane and a sensible provision. I just do not like the way it combines itself with Section 23(1) and the possible consequences of it.

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November 18, 1980: Professor Max Cohen (Chairman, Select Committee on the Constitution of Canada of the Canadian Jewish Congress), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 7, then scroll to p. 87)

And now, Section 6 is a very important area of mobility rights. Here, we are concerned that the section begins, "Every citizen". We are not sure if you really want to confine that mobility right only to citizens. What about permanent residents? What about landed immigrants? What about refugees?—a whole category of people legally in Canada, one way or another! They ought to have total mobility rights, We ought not to have two, three, or four categories of mobile citizens in Canada.

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And Section 2(b) is very important.

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

That raises a large number of issues. My colleague, professor Cotler, will discuss them when we come to Section 15 on non-discrimination questions because the discrimination, province by province, against certain non-provincial residents or citizens for certain types of jobs have raised certain difficulties already in Canada.

You may be interested to know how strange it is that we, as a united country of 113 years' experience of a great federal union, have less mobility than the recently born European Common Market. The Common Market has already worked out a system of total mobility for doctors and nurses, and the idea of Italian barristers in the Inns-of-Court frightens me. The very image of it as a picture; but there it is. The same is true of Italian nurses and of British nurses somewhere in south Germany; and the mobility now is to the point where it is supposed to be total. They are working on engineers, architects and others and I am told by students of the common market here that in due course, under the Treaty of Rome they expect to have total mobility in all professions. Well, we are nowhere near that after 113 years!

You try to become a member of the Law Society of Upper Canada when you come from a civilized place like Manitoba, without having the right amount of money, the right amount of qualifications

and the right amount of internship period, etc. etc. I am not saying this in anything but a semi-facetious way; let me say I am semi-serious and semi-facetious.

I am concerned about language, though, in a charter in which one does not get the total sense of mobility because it is in fact an already existing body of strict regulations governing that mobility and which the charter may not wholly and effectively deal with.

In the same Section 6, we feel the words “permanent resident” has now become a term of art and should be regarded as such, and, therefore, they should have the full protection as well the citizens of Section 6(1).

Finally, because we are signatories to the Convention on Refugees of 1951, we feel that refugees also should have certain rights of mobility which this particular section of the charter would not give to them once they are admitted refugees in the classical definition of that term as defined in the Convention of 1951 itself.

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November 19, 1980: Professor Sam Hughes (President, Canadian Chamber of Commerce), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 8, then scroll to p. 6)

I would like to draw to your attention the concern of the business community of Canada to the subject known as economic union, that in our mind’s eye is the free flow between the provinces of goods, services, capital and labour. We recognize that in the proposed statement under Section 6, that mobility of individuals has indeed been accepted. I would at this point like to question whether or not citizenship should be the test for mobility of people across Canada as it seems to be. I would like also to draw your attention to the fact that the resolution presented to the Canadian Chamber of Commerce membership at its recent annual meeting in Quebec City on the subject of impediments to the freedom of movement of goods, services, capital and labour was approved unanimously by business people from across the country.

We have a concern that impediments exist between provincial jurisdictions that those impediments are creating economic hardships, not only with the jurisdictions but for Canada as a whole in the development of its export trade. We would be very pleased to discuss further with you the reason for the reduction of impediments in these four areas, but I think at this time I will leave it as a simple statement of fact that we would like to have it happen and like to have it done within the constitution.

Jake Epp, Graeme T. Haig, Q.C. (Chairman of the Constitution Reform Committee), Sam Hughes (President, Canadian Chamber of Commerce), p. 12

Mr. Epp: I would like to, gentlemen, spend some time on the specifics of Section 6, the so-called mobility rights. I want to say at the outset that I am as concerned as any other Canadian if either federal laws or provincial laws should be enacted in such a manner that in fact we would develop

into a balkanized, economic, union at best. I think that is also the thrust or purport of your submission.

I would like to ask you, if that is the case, what is your view as a chamber relative to provincial laws that give preference either in contracts, preferences where the provincial government is buying services or goods, preference given to provincial business entrepreneurs, or, in the case of a province placing preferential hiring practices or, for that matter, and I think generally in this debate, it has been viewed as the provinces following that line of enactment. But by the same token, the federal government north of 60, in its own jurisdiction, having legislation for example such as the Northern Pipeline Agency Act, having legislation along the very similar lines as I just expressed. By your reading of Section 6, are any of those thrusts jeopardized?

Mr. Haig: Mr. Chairman, through you to Mr. Epp, Section 6 deals with but one of four elements that the Chamber regard as being very important to the economic development and job creation in Canada. Provincial laws favouring a specific business, the criteria being residency in that particular province, can, by definition, be at best, short-sighted, and at worst, coddling a business to the point that it is a weak business. It is not going up in an environment, tough, strong and competitive. The business of hiring preference from one province within a province to the exclusion of residences of other province, is to us abhorrent. It is a practice that exists in several of the ten provinces and something that we would regard with disfavour. We would regard, too, with a great deal of scepticism bordering on disfavour the practices of preferential purchasing from province to province. It breeds balkanization of what could otherwise be large world-scale companies enabling Canada to compete effectively internationally.

I am sorry, for my part I cannot comment on the Northwest Territories as to the impact of the act. I would add only that one area you did not touch on that I would like to add to, and that is the free flow of capital. To us, one provincial premier saying: My province is not for sale; another provincial premier blocking the purchase from Atlantic Canada of a financial

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institution within his province is totally wrong and in both cases damaging to Canada.

Mr. Epp: I would like to pursue that a little further with you Mr. Hughes. Some of us have had some experience, some more than others, in municipal affairs. How do you apply that rule of thumb, and I do not object to the policy position you have taken, do you take that position to the level of municipal government as well?

Mr. Hughes: Many municipal services, Mr. Epp, are of such character that they can be supplied only by people living in the community. Mr. Crombie I am sure would have chapter and verse on that particular thing. Frequently, most frequently municipal services, I am sure, are supplied, by the nature of those services, by the people living near at hand. I do not know that municipal services are precluded by anything except administrative policy from being supplied from outside of the community.

I would not wish any impediments to trade as a policy matter. As a practical matter, of course, there are going to be administrative policies that few of us agree with but indeed are going to exist.

Mr. Epp: Mr. Hughes, with all respect, that is what this Committee is dealing with, not only with policy but how will the courts interpret principles in terms of the actual effect of the principles included in practical every-day administration, and if I understand you correctly, while there is sympathy in terms of residency requirements at the municipal level . . .

Mr. Hughes: I do not think I said that but I might.

Mr. Epp: Well, let us just take that a little further. At the municipal level, for reasons one could argue, for reasons of practical administration, but once you have accepted that principle at the municipal level is there not some thrust to the same principle at the provincial level?

Mr. Hughes: It would not be the intent of the Chamber to argue that way. The services I was referring to Mr. Epp, are those that are local in nature such as the cleaning of streets, the supplying of personnel to the local government, the maintenance of some health services that quite clearly cannot be served from a distance of hundreds and hundreds of miles because they are very local in their application.

We would encourage community governments to, wherever practical, not place impediments in the assignment of those services and contracting for them, but as a practical matter they are going to be inclined to deal with people who live more closely because, indeed, there is an economic advantage to it.

Mr. Epp: Mr. Hughes, I am not arguing with the principles you are trying to make or the thrust of it, I am trying to also project in practical terms what does this mean and I would like to get back from what you have been saying to the Northern Pipeline Agency Act. By what has now been euphemistically termed affirmative action, it need not only be for native people, it could be for other groups as well. Would the Chamber under the principle you have just enunciated, that is

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the delivery at the local level of certain goods and services, maybe we should leave it at services, at the local level, would that then confirm the validity of the hiring of native people, for example, in projects north of 60°, especially resource projects because those are the ones we are facing right now?

Mr. Hughes: Our concern is with impediments to the free flow of labour in this particular case. If the hiring of local people did not mean that other people from other parts of Canada could apply for work and be logically hired at the same economic cost, then we would have some reason to question any law that excluded others.

Lorne Nystrom & Sam Hughes (President, Canadian Chamber of Commerce), p. 18

Mr. Nystrom: All right, a couple of questions in another area. I switch to page 3 of the brief, and I know Mr. de Jong of my party has some supplementaries he would like to ask you as well, and it is the free movement of goods, services, labour and capital. You seem to be pushing very hard a concept that was rejected as written by the federal government earlier this summer about the free

circulation of goods, services, labour and capital and I wondered if you thought about some of the objections to the wording this summer by the federal government that this may create some difficulties with some provincial programmes. I am thinking of affirmative action, for example; I think of the free flow of services and some of the provincial insurance schemes like the Auto Insurance Plan in Manitoba, British Columbia, Quebec and the like. Have you run some of these through your mind and what is your reaction to that?

Mr. Hughes: Well, Mr. Nystrom, we have run them through our mind. We realize that the request we are making of this Committee cannot, as a practical matter, be granted to the point of absurdity, that there has to be a level of practical application and a level of understanding of application of these principles developed by this Committee that we hope would be found to be workable.

We cannot give you the wording chapter and verse to avoid provincial conflict, but we would indeed encourage you to do so.

Professor Sam Hughes (President, Canadian Chamber of Commerce), p. 87

Mr. Sam Hughes (President, Canadian Chamber of Commerce): Mr. Chairman, ladies and gentlemen.

I would like to draw to your attention the concern of the business community of Canada to the subject known as economic union, that in our mind's eye is the free flow between the provinces of goods, services, capital and labour. We recognize that in the proposed statement under Section 6, that mobility of individuals has indeed been accepted. I would at this point like to question whether or not citizenship should be the test for mobility of people across Canada as it seems to be. I would like also to draw your attention to the fact that the resolution presented to the Canadian Chamber of Commerce membership at its recent annual meeting in Quebec City on the subject of impediments to the freedom of movement of goods, services, capital and labour was approved unanimously by business people from across the country.

We have a concern that impediments exist between provincial jurisdictions that those impediments are creating economic hardships, not only with the jurisdictions but for Canada as a whole in the development of its export trade. We would be very pleased to discuss further with you the reason for the reduction of impediments in these four areas, but I think at this time I will leave it as a simple statement of fact that we would like to have it happen and like to have it done within the constitution.

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November 20, 1980: Raymond Halley (President, Canadian Bar Association Newfoundland Branch), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 9, then scroll to p. 78)

With regard to Section 6 dealing with mobility rights of Canadians, we certainly agree with this provision in principle. We are concerned in the province that despite the affirmative action

provisions of Section 15(2), the local employment preference provisions of our petroleum regulations may be ruled invalid by the courts. Particularly when reference is made to Section 6(3)(a). We feel that this Committee should give consideration to a designation of a province such as Newfoundland as a disadvantaged area. This would justify the province in enacting local employment preference provisions, on an interim basis hopefully, and of course these preferences would be eliminated when the economic benefit of the offshore resources put the province on an equal footing, not even with other Canadians but with the other members of the Atlantic Region.

Edward M. Hearn (Member, Newfoundland Branch of the Canadian Bar Association), p. 82

The commitment to an economic union as exemplified by the mobility of labour clause appears hollow when one province can be allowed to impede the development of resources in another province. Surely mobility rights should be extended to include mobility and free interprovincial access of goods, capital and services.

Lorne Nystrom & Raymond Halley (President, Canadian Bar Association Newfoundland Branch), p. 90

Mr. Nystrom: This will be my last question, Mr. Chairman. You also state, on the mobility rights, that would be Section 6, that that should be broadened to include the free flow or access of goods, services and capital.

Again, it seems to me that is a different position from that of the Premier of your province. I know some people, over the summer, at the CCMC meetings have raised a lot of concern about the total free flow of goods, services and capital. which might affect affirmative action programs, and might affect in terms of the free flow of capital, some of the provincial monopolies like the automobile insurance plans and the like, and P.E.I. lands is another possibility, and Mr. Henderson is concerned about that.

Frankly, I was surprised to see that you included that in your proposal. I wonder if you would like to elaborate on why you are doing that.

Mr. Halley: Well, Mr. Nystrom, we do not always consult with the Premier in making our proposals, nor does he always consult with us in making his.

However, we are concerned with the question of Canadian economic union. We feel, generally speaking, that barriers ought to be kept to a minimum. We feel there have to be exceptions to any general rule, and there can be dire economic circumstances which require exceptions. Perhaps the present Newfoundland regulations fall within that category.

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But certainly, the general principle ought to be established not to be limited simply to mobility of labour, and if there are exceptions. generally speaking, we would hope that there would be interim measures rather than entrenched provisions: that goes to mobility of labour as well as of the right to hold property and to pursue a livelihood and those things.

But we feel that it is hollow to concentrate on that when one can be in the invidious position or in a position that another province can actually impede your right to develop resources. So we want to concentrate on the integration of the Canadian economic unit, and we feel we should pursue the whole picture rather than looking at one small item. That is our attitude towards the mobility of labour, and it may very well be we might take a different view from that of the province, though I am not entirely sure that we do.

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November 21, 1980: Lucille Roch (General Director, Société franco-manitobaine), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 10, then scroll to p. 23)

We are asking you to be generous. to have a vision of Canada that will allow all Canadians to feel at home anywhere in their country.

Freedom of movement and the freedom to live anywhere in Canada will mean nothing if Canadians, particularly French-Canadians, cannot leave their home province for fear of losing their language and not being able to pass on their culture to their children.

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November 25, 1980: George Braden (M.L.A., Leader of the Elected Member of the Executive Committee, Gov. of NWT), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 12, then scroll to p. 60)

The Northwest Territories has a small population consisting largely of Native people, many of whom are only now beginning to develop the skills in the trades which will enable them to compete in the southern Canadian job market.

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Now, with the probability of substantial activity in the oil and gas field in the Northwest Territories, there is every likelihood that a sizeable labour force will be required. In the absence of any legislation to give preference in hiring to northern residents, it is most probable that companies engaged in such economic activity in the territories will import labour from the south and may make little or no effort to train and employ northern residents.

The concept of mobility rights would be acceptable if there is indeed going to be an equal exchange of labour between various parts of Canada. I am afraid however, that in the north-south context, the traffic is going to move only one way, that is, southern labour coming north. There will be hardly any movement of labour going south. Economic conditions for northern residents are difficult at the best of times.

In my view, the constitution should recognize the reality of the northern frontier with its delicate balances. In their present stage of development, the Native people of the Northwest Territories are simply not able to compete with an unrestricted flow of labour from the south, and I would urge you to find some means by which the territories could be exempted from the mobility rights provisions.

Peter Ittinuar & George Braden (M.L.A., Leader of the Elected Member of the Executive Committee, Gov. of NWT), p. 66

Mr. Ittinuar: Thank you, Mr. Chairman. Another point I would like to very briefly touch on is the fact that you mentioned mobility rights, which is something I have personally been concerned about. This is in view of impending development of the north and the fact there may be an influx of people from the south which would preclude residents of the Northwest Territories total enjoyment and job opportunities and so on and so forth.

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Now, would you give this Committee or would you submit specifically worded amendments or proposed amendments to that part of the resolution

Mr. Braden: Mr. Chairman, I am not prepared at this point in time to make specific representations in this area although if it is the wish of this Committee I am sure we could have something developed for your consideration. I do have some comments here from officials in the Department of Economic Development where they do propose a manner in which various formula using the unemployment rate in various regions in Canada could be established, and if it was the case that high unemployment was found in one particular region of Canada, that affirmative action plans could be put into place or this mobility provision could be waived.

Our honourable representative from Nunatsiaq I think has raised a very, very important issue for us. It is not an issue just in terms of large scale development where we perceive we will have to deal with big unions and big contractors and big industry, and also big federal government, but we also see it in terms of the present where our government has some policies whereby we try to give preference in the hiring of Northern residents rather than bringing in the expertise we need from the South. So it is something that is taking place right now and we are quite concerned that by putting something like this into place it is going to be our government or perhaps even industry which chooses to co-operate by instituting a Northern preference policy, they may be in trouble as well.

Senator Lucier & George Braden (M.L.A., Leader of the Elected Member of the Executive Committee, Gov. of NWT), p. 70

Senator Lucier: Thank you, Mr. Chairman.

My next question deals with the mobility rights clause. I do not mind telling you that I have some problems with this one as well, as it pertains to the Yukon.

You have stated very well in your brief the flow which would go south to north and not really north to south in the labour market.

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The only thing is that you go probably further than I would feel comfortable with when you suggest that the territories could be exempt from the mobility rights provisions. In that light, I would ask if you would want to be exempted from all mobility rights provisions in Section 6. Would you feel you should be exempted from all of the provisions of Section 6? How would this affect the rights, the reciprocity, where the people of the territories also like to move around?

The Joint Chairman (Mr. Joyal): Mr. Braden.

Mr. Braden: No. I would say, Mr. Chairman. we would not want to be exempted from all of the mobility rights provisions. I think in our argument we tried to make it rather straightforward. We believe that it is necessary for our government to put into place policies, legislation and regulations which can give preference to a developing labour force.

We just do not have the kind of numbers of workers who are skilled to compete with the labour force from the south. I have seen in Alaska. where the big unions and big contractors move in. and, of course, they want to get the job done and make money. I cannot see how it is going to be any different in the Yukon than it was in Alaska.

Therefore, I suggest that. in order for training programs for local people to be effective, in order to have other affirmative action programs even having to do with the small business sector in the Northwest Territories and the Yukon, the respective governments are going to have to come up with policies or legislation which are going to, if need be, force these large, outside interests to recognize the need to make a contribution to the development of the labour force as well as the development of the business community in the two territories.

Jake Epp & George Braden (M.L.A., Leader of the Elected Member of the Executive Committee, Gov. of NWT), p. 74

Mr. Epp: Mr. Braden. in an article dated November 22, 1980 by Robert Shepherd in the Globe and Mail, the Minister of Indian Affairs and Northern Development was interviewed on the question of mobility rights. It seems not only is the question of mobility rights on this Committee table, but also from the minister himself and I just want to quote one section. The Minister added that while preferential-hiring practices for natives may withstand scrutiny by the courts, he does not feel that the same preferences could be extended to northerners as a whole. something that is expressly promised in federal pipeline legislation.

Namely, the Northern Pipeline Agency relative to the Yukon.

But obviously the same effects would be operative in the Northwest Territories. Do you feel that you need a protection for both the native and non-native northerners re the mobility rights.

The Joint Chairman (Mr. Joyal): Mr. Braden.

Mr. Braden: Yes, Mr. Chairman, I would make that statement. I would urge this Committee to keep this business of mobility rights in perspective. because we have a very small labour force, and by and large many of them are involved in employment with municipal governments, or the territorial government, or the clerks in stores, or private businessmen. I can assure you you are not going to see a mass migration on

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the part of this labour force go into work in a mining camp or building a pipeline. I really believe on the other hand for those people who do wish to go and seek employment or training in large industrial projects that we should be in a position to give them some preference, because, as I see it, probably 90 to 95 per cent of the labour force that comes up from the south to build these large projects will have to come up from the south because we just can not provide the kind of skills and the numbers of people required. So it is not a real major factor in the N.W.T. if we look at the size of the labour force, but we just want that protection, that if somebody wants that pipeline job then we can get him in there without having to get into a big squabble with the union on a contract.

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November 26, 1980, Debate in the House of Commons, p. 5088 (click [HERE](#))

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November 27, 1980: C.W. Pearson (Leader, Government of Yukon), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 14, then scroll to p. 31)

Had we been given an opportunity to participate earlier, we would have outlined our concern that the proposal before you now fails to make provision for the entry of new provinces into Confederation and would have jumped immediately on Section 6—mobility rights—as presenting problems for us with the preferential hiring clauses attached to the Alaska highway natural gas pipeline and on which our support for the entirely project is partially based.

C.W. Pearson (Leader, Government of Yukon), p. 35

Mr. Chairman, we have been in the process of negotiating a socioeconomic agreement with Canada in respect to the construction of that pipeline in the Yukon for three years. The clause in respect to mobility, preferential hiring rights, preferential training for Yukoners has been in existence for most of that three years and has been the one section of that whole agreement that has been virtually inviolate until today. It just simply has not been touched. It was agreed upon, it was felt by the proponents and by the Northern Pipeline Agency acting on behalf of the Government of Canada, and by our government, as being the best possible method to mitigate against some of the horrendous, we can foresee, circumstances that could arise as a result of the experience in Alaska with the Alyaska line. It has been the one thing that has remained intact all of the way through.

The doubt raised now is a very real one and of major concern to us. It may well be, Mr. Chairman, that we as a government would find it necessary to withdraw our support of the construction of that pipeline should this clause have to be amended in order to meet the concerns of the new constitution. That I would suggest, Mr. Chairman, is going to raise another major issue in Canada that we should just not face at this point in time.

George Henderson, p. 45

Mr. Henderson: I have one other question and it is for clarification, really. You mentioned, and it is in line with your statement on mobility rights and the right to preferential hiring practices, and of course preferential training practices, because I think the two go basically hand in hand, but you stated that most of the hiring is done in the hiring halls in the south and I would like to know if those are unionized hiring halls? I mean, large contractors who would be going up there, are they compelled to hire union representatives rather than, we will say, go to the territories or the Yukon and get people from that area who may not belong to a union? Is that an obstacle?

C.W. Pearson (Leader, Government of Yukon), p. 46

Mr. Pearson: Mr. Chairman, it is a real obstacle and most workers in the Yukon hired for large projects are in fact unionized, are hired through union hiring halls in southern Canada, the majority in either Vancouver or Edmonton. Most of the larger unions in the Yukon are members of the BC-Yukon Federation of Labour. That is a joint federation, we do not have a Yukon Federation of Labour per se in respect to the larger national and international unions.

So that is a problem that eventually we think we will be able to overcome

Dave Nickerson & C.W. Pearson (Leader, Government of Yukon), p. 48

Mr. Nickerson: One final question, Mr. Chairman. This pertains, again, to the mobility rights, and the difficulty which that might cause in the Yukon.

The evidence presented before us by representatives of the Government of the Northwest Territories, where they brought up the same issue, they suggested that maybe this was something which, although of some importance, nevertheless, because of the fact that there were not many people in the territories, and that for a major project it would be absolutely necessary to bring in people from outside the territory, it was not a matter of extreme importance to them in relation to some of the things which they refer to such as the attainment of provincial status which was much more important in their presentation.

I wonder whether you are of the same view.

Mr. Pearson: Mr. Chairman, the immediate concern of the Yukon happens to be with the mobility clause.

I can well understand and sympathize with the view of the Northwest Territories that it is not a major concern; but it is a major concern to Yukon, and an immediate concern primarily because what is happening is the Yukon territory, with 25,000 people in it, is being asked to suffer or to

absorb the impact of the largest known construction project in the world. Mr. Chairman, there was a fairly large one in Alaska in respect to the Alaska line when it was built, and the impacts on Fairbanks in particular, because there was no in-migration control at all, were devastating.

We look to the terms and conditions of the Northern Pipeline Act to mitigate those impacts to as great an extent as possible.

I agree 100 per cent with what Mr. Nickerson has said, that there will be an awful lot of in-migration; but we are hopeful, Mr. Chairman, that it can be controlled to some degree.

We are also of the opinion now that, with the proposed amendments to the Canadian constitution, there could be no control. It would be unconstitutional to control that in-migration.

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December 1, 1980: Mary Simon (Member, Inuit Committee on National Issues), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 16, then scroll to p. 11)

The main reason for including mobility rights in the Charter is to encourage the creation of a true economic union within Canada. ICNI supports this concept which is intended to strengthen the economy in all areas of Canada. However for cultural, economic, social as well as environmental reasons, an additional limitation is required in Section 6(3).

Both the northern environment and Inuit communities are particularly susceptible to significant environmental and social impacts when faced with large-scale development. Laws or practices of general application, as provided in Section 6(3)(a), may be sorely inadequate to meet the special needs of Canada's North and to protect Inuit culture.

The same is true in relation to our northern economy. The massive influx of a temporary workforce from southern parts of Canada when northern projects are announced, if unrestricted, may have severe consequences in the North. In such a situation, we would be unable to compete. Northern unemployment would not be reduced. Therefore, special protections are necessary in order to develop a viable northern economy and to establish a northern workforce.

The principle of priority of contracts and employment for northern residents appears to be inconsistent with the mobility rights in the Charter. Therefore, benefits owed to Inuit under the James Bay and Northern Quebec agreement may never be

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realized. The loss of this benefit, which presently has the force of law, is unacceptable.

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December 2, 1980: Jim Hawkes & Mark Gordon (Co-ordinator, Inuit Committee on National Issues), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 17, then scroll to p. 18)

Mr. Hawkes: [...] My last question, could I just take you to page 16 where you deal with the mobility rights section. If I understand your criticism correctly, you are, like most Canadians, in favour of a system that would encourage mobility of labour because it would be good for the economy, but when you look at the specifics of your personal situation, you find this section to be inadequate for a couple of reasons; number one, it does not protect you from massive invasion, so it needs to be changed in that direction; it does not protect you economically adequately in being able to have first call on some jobs and some training. I think I see those two threads. I have raised the issue very briefly with the Minister of Justice and our time ran out, but I direct your attention to clause 3(b) which is one that people have not paid much attention to. But it seems possible to me that in law someone could sue to stop the expenditure of public money for social purposes, and I am wondering for instance, if the legal advice you have might indicate that some of your people who may be wanted to come south of 60 for a period of training and that in the ordinary case public funds would be used to assist in that, whether or not somebody could sue in a sort of reserve discrimination sense and stop the expenditure of public money for the kinds of training programs that people might need and want.

Have you got concerns about that particular part of the mobility section which is before us. Have you looked at that and does that concern you?

Mr. Gordon: In the specific example that you site here of people coming down south for training, I think that would be adequately covered in Section 24 as it now stands where it deals with the disadvantaged groups being given the opportunity to be able to be given programs and social assistance.

Judd Buchanan, p. 46

Mr. Buchanan: There has been over the past number of months some comment, both political and editorial, that we have passed in Nova Scotia, or are proposing to pass, legislation which will restrict the movement of Canadians into our province and restrict people other than Nova Scotians in obtaining employment in our province.

I want to set the record very straight on that at the present time. That is completely incorrect. We have not on our books such legislation, nor do we contemplate such legislation. We believe Canadians should have a right to work in any part of this country, whether it is British Columbia, Nova Scotia, Newfoundland or in the Arctic or in the Northwest Territories or the Yukon.

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We believe Canadians have that right at the present time and it should continue.

But we have proposed and will propose in Nova Scotia that in matters maybe affecting off shore, if Nova Scotians are fully qualified, that these Nova Scotians be at least entitled to some form of preference to obtain a job, I repeat if they are fully qualified for that position.

I do not think anyone could really argue against that proposition, because it is a position which has been taken historically by the federal government and by the provincial governments throughout this country.

I do believe that provinces should be able to continue to have a right of some form of determination of preferences within our provinces, contractual relationships, employment preferences of a qualified nature and that we should be very careful of entrenching in our constitution proposals which would absolutely do away with any form of provincial right on this kind of mobility right.

Rose Charlie (Western Vice-President, Indian Rights for Indian Women), p. 85

Section 6 deals with mobility rights. As things stand now, Indians have special hunting and fishing rights within their own treaty areas, but not outside them. Does this provision mean that a status Saskatchewan Indian who moves to Ontario carries with him/her those special rights, or not? This matter should be stated clearly; it should definitely not be a matter of unconstrained judicial interpretation.

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December 3, 1980: David Joe (Legal Counsel, Council for Yukon Indians), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 18, then scroll to p. 14)

The second area which concerns us is Section 6 of the patriation bill which speaks of the mobility rights in Canada.

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As was addressed by Mr. Allen's counterpart, Mr. Pearson, earlier, he expressed the view that there would be no preferential hiring in the Yukon. That could be declared to be unconstitutional.

At this point in time, with the Northern Pipelines Act in the regulations, there is allowance for preferential hiring for Yukoners, and that section could be struck out; that area concerns us.

Ron Irwin, Harry Allen (Chairman, Council for Yukon Indians), David Joe (Legal Counsel, Council for Yukon Indians), p. 28

Mr. Irwin: Now, on mobility, you have indicated that you have serious reservations. You are opposed to having the mobility rights enshrined so that Southern Canadians can go north to work. How about the reverse? How would you feel if, say, Saskatchewan, Alberta, Ontario or any of the

provinces said that you had to be a resident for two or three years in that province or you could not work there?

Mr. Allen: Well, I guess a lot of it depends on the political situation. I think in the Yukon, the needs and aspirations of the Yukon Indian people in terms of making decisions, I think the Yukon Indian people have to play a major role. In terms of right now I think our people, around approximately 80 per cent of our people are unemployed. This lack of economic development in the Yukon Territory, the training in terms of our people is very low. So taking all these circumstances into account I think that we have to have some type of clause of residency in terms of the Yukon Territory to ensure that the Yukon Indian people get some of the benefits of employment, the training and some of the benefits that come from development or whatever occurs in the Yukon.

Mr. Irwin: All right. You make an economic argument but I would like to deal with the cultural argument. I know that from a recent report, that by intrusion of television, basically from Southern Canada, and mostly American, it has changed significantly the culture of the North. For instance, Indians who are usually peaceful one to one, even though they are in a very hostile environment, are fighting more and the report I saw says there is a direct relationship to the violence they are seeing on the television that is coming in from the South, *Hockey Night in Canada*, *Starsky and Hutch* and this type of thing.

Would you agree that there is a cultural intrusion into the north from the south? What is it doing to your own culture?

Mr. Joe: The answer to that is yes, there is a cultural impact. There would be a devastating cultural impact if you were to leave the mobility clause as is; and as I can recall, in our participation before the Lsusk Inquiry, which was an inquiry established to determine the social and economic impacts which would accompany the construction of a pipeline with the capital costs of approximately six billion dollars, we were told there would be approximately 2,000 people on a daily basis during the construction period that would be coming into the Yukon.

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I cannot imagine—and I shudder to think what would be the cultural impact of those transients coming into the Yukon.

We can appreciate the sensitivity that different provinces have with respect to their own respective aspirations, whether or not they want a shifting work force in this country or not. But we, as Yukon Indian people, do not feel that our cultural values should be left unprotected when there is an industrial onslaught through a transient work force which would come up for a very short period of time and make demands on the infrastructure up there which we are not, at this point in time, totally sure could secure and provide the kind of services that southerners generally desire.

Mr. Irwin: This makes more sense to me.

I can understand the cultural onslaught. But it is very difficult to explain to someone in Alberta, Ontario or Newfoundland, why they cannot work out of their province.

Canadians generally, I think, would accept the proposition that we are destroying a culture in the north, in fact several fragile cultures in the north. Perhaps a discrimination clause based on that type of proposition would be acceptable to Canadians at large, and, as has been said, you should not confuse unity with uniformity.

It is important to all of us, as Canadians. that your culture should survive.

Erik Nielsen, p. 34

Mr. Nielsen: Thank you, Mr. Joint Chairman. I could not agree more with the last statement that was made by Mr. Joe. I have two observations to make before I put additional questions, one which arose as a result of Mr. Irwin's questioning with respect to the mobility rights. Mr. Joe is very modest when he answered with an estimate of 2,000 people on a daily basis in migration as a result of pipeline construction. It has been estimated there is anywhere between 2 and 10,000 people and the impact on the culture of not just the Indian people but the impact on the whole of the population of Yukon is extremely serious. Consider those members and senators from the Province of Quebec in the community of Rouyn, a community of 18,000. All of a sudden you had 2 to 10,000 anglophones descend on that community; similarly Granby with a population of some 27,000 and an influx of between 2 and 10,000 anglophones on that community. The cultural impact would be somewhat similar to that described by Mr. Joe.

Ron Irwin, Harry Allen (Chairman, Council for Yukon Indians) & Jim Hawkes, p. 36

Mr. Hawkes: Just a couple of confirmatory questions. Your concern about mobility is on two sides, is that correct? You want to protect yourself against invasion, large influx of people, but to redress the disadvantage economic conditions there must be provision in the constitution for preferential hiring and training and programs of that kind and those should be clear and specific; those were the two major . . .

Mr. Allen: Yes.

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December 4, 1980: Nicole Dumouchel (Board Member, Canadian Council on Social Development), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 19, then scroll to p. 28)

Specifically regarding mobility rights, Section 6(3)(e) and Section 6(3)(b). These clauses would well have the effect of limiting the mobility rights as specified in Section 6(2)(b) to the extent of reducing the nation to a series of sovereign states.

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As we understand this section, it would allow provincial governments to prevent Canadian citizens and landed immigrants from moving between or within provinces, on whatever grounds the provinces might enact as law, except residency. Though the provinces would be subject to the general prohibition of discrimination on human rights grounds, such as age, race, sex, national origin, they could be allowed to prevent Canadians from moving into their province for any other legislated reason they choose. Though provinces have this right now, under the British North America Act, they must bow to national interest when required. Section 6(3)(a) appears to extend provincial rights regarding migration, and to further limit federal jurisdiction.

In addition to our general concern regarding mobility for all Canadians, we are specifically concerned with Section 6(3)(b) which would place severe restrictions on access to social services. Access to public social services is already limited by defining eligibility. Benefits under the Old Age Security and Guaranteed Income Supplement programs are available only after 10 years residence in Canada. Canadians face residency restrictions at the provincial level for access to public housing and for discretionary income supplements and tax credits.

Regarding access to public social services, the Canada Assistance Plan has taken the lead in enforcing mobility rights by requiring provision of social assistance, without regard for residence.

Given CAP's recognition of the importance of portability of social benefits, we must ask about its future if Section 6(3)(b) is enacted. It appears that the universal nature of the Canada Assistance Plan could be ruled invalid. What consequence will that have for people in need of social assistance? In a society as mobile as Canada's, it would be a tragedy if the new constitution allowed residency to become a criterion in the determination of eligibility for human services.

If our constitution is to truly reflect our hopes for the future, and is to serve as a statement of the principles to which this nation aspires, surely these sections which now reflect an insular attitude and lack of generosity must be stricken. One must ask what higher goal these restrictions would address? What national interest?

To permanently enshrine barriers to social services is unacceptable. We recommend that Canada's constitution reflect mobility rights consistent with Article 12 of the International Covenant on Civil and Political Rights.

Nicole Dumouchel & Fred Pennington (Board Members, Canadian Council on Social Development) & Jim Hawkes, p. 34

Ms. Dumouchel: Yes, it is a correct conclusion because of the programs that are in existence and also the fact with the mobility being restricted could endanger some programs that are already financed or already under the responsibility of the federal government, and especially on the cost sharing.

Mr. Hawkes: In a general way you support the aboriginal groups which have been appearing before us in the last two or three days that the wording of this proposal may in fact threaten their social programs, their rights, and needs to be strengthened, that is one part of your brief which I do not think you mentioned in your summary but I am correct in drawing that conclusion.

Can we look at page 14 as an example of this, but this is where you deal with the section in the constitution called Section 6, which is the mobility rights, and we have been assured by ministers in the House of Commons and by lots of speeches by members on the opposite side, that the Government of Canada is intent on doing a wonderful thing in this new constitution of ensuring mobility rights for Canadians. Now, your brief, and it takes you almost two or three pages to point out to us that in your judgment what we would be doing by putting this wording in the constitution of Canada is two very important things: we would be opening the door in a legal sense to considerably more restriction of mobility than is currently the case today. That is the first point you make and I think you make it eloquently. Am I correct?

Ms. Dumouchel: Yes, we are questioning the restriction on mobility quite definitely. And the creation of a series of sovereign states which would give more power for the final authority to the provinces and reduce the quality and strength of Canada.

Mr. Hawkes: In other words, what this section would do would give the constitutional approval to provincial governments to be more restrictive in terms of allowing people to come into their provinces?

Ms. Dumouchel: Yes, definitely.

Mr. Hawkes: That is your interpretation. The other little back door principle which is found in Section 6(3)(b) is giving the power to governments to restrict access to publicly funded social services, that is what you say to us, and if I run that against the context which you did not deal with in your oral remarks but which is in here, the fact that in Canada today there is a great deal of concern about the financial capability of governments at different levels, and in the budget of October 28, the Finance Minister warned us that savings in the future are going to come out of his social policy envelope. What we would be doing here in the constitution of Canada is providing legal justification for the Finance Minister of this country to cut back dramatically on social expenditures, that possibility would exist if Section 6(3)(b) was left in this proposal. Is that your judgment?

Mr. Pennington: Yes, that is our judgement and it is so closely interconnected with the recent events which you have identified that part of our dilemma and our concern about

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providing people who are affected by services, and particularly people in need, is to give them the opportunity of what that is going to mean because we feel that you will in fact hear from a great deal more individuals and organizations as they begin to comprehend the implications of potential changes in financing arrangements, for example, between the senior level of government and the provincial level of government, or any of the individual concerns which have come out in our presentation. So that it is so closely interconnected that the opportunity to provide more people with that chance to understand that, to discuss it and to communicate with you we think is critical.

Mr. Hawkes: So if we keep the people in the dark then we can sneak up on them and change the world and they will never know until it is too late, that is part of what I believe we have been fighting on this side of the House.

There is a curious absence in your brief when you are dealing with the mobility rights section that relates to testimony that we have heard in the last two or three days with some strength, which I have heard as Vice-Chairman of the special task force on employment in the 1980s, but as we travelled the country, and this Committee is not allowed to travel, but as you travel into places like Bathurst, Moncton and the Northern parts of Manitoba, Saskatchewan, Alberta, the Yukon and Northwest Territories, there is a great deal of concern by the people who live in those regions, and I think by the parliamentarians who represent those regions, that we not have a mobility right in this country that does not protect the rights of people who live in regions with high unemployment and lack of opportunity, that does not protect them against invasion, large numbers of people flooding into them, and that does not also give them some right of preferential training and preferential hiring; because of the areas they live in, they do not have the same access quite often to education, to job experience opportunity and they want to be absolutely certain that affirmative action as regards them, on the basis of residency, would be somehow protected in this constitution and at the same time they want protection against invasion.

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December 4, 1980, Debate in the House of Commons, pp. 5316-7 (click [HERE](#))

Concerning: Mobility Rights—Quebec position

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December 5, 1980, Debate in the House of Commons, pp. 5409 & 5418, 5437 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (5409 & 5418); Mobility rights, goods, and services (5437)

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December 8, 1980, Debate in the House of Commons, p. 5478 (click [HERE](#))

Mr. Hawkes: We may explore that when we have more time later this evening. Out of the four major mobility problems the minister referred to, could he indicate which of those would be solved by the constitution legislation of 1980?

Mr. Axworthy: We would hope that we can provide some solution to all of them. The charter of rights would establish a basic standard, a foundation upon which all governments and individuals would know that they have certain rights. Where there are impediments to that, such as the Newfoundland legislation, they could be struck down. But as the hon. member should know, because he is a member of the constitution committee, one of the other advantages of the charter of rights, whether or not it is in a non-discriminatory area, is that it will require governments to go back and check their statutes, their laws and regulations, to make sure that they conform to those precepts of the charter of rights. Therefore, they will have to make a complete re-evaluation to ensure that there is not, within their different standards or codes, that kind of impediment to choosing where they will work or live.

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December 16, 1980: Duncan McKillop (Chairman, Task Force on Constitutional Change, Alberta Chamber of Commerce) & James McGrath, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 27, then scroll to p. 65)

Mr. McKillop: [...] All the provinces do this. How they are going to handle that is a very difficult question. If some one else does it, I suppose in a defensive sort of way, any other province or municipal body must—well, at least you cannot discourage the practice.

Mr. McGrath: I see no other way that provinces with weak or developing economies can protect their own constituents, which I find not inconsistent with preferential hiring practices, which runs contrary to your recommendation with respect to the economic union.

They are simply just that—preferential hiring practices. How else, for example, would a province with an unemployment rate anywhere from 15 percent to 30 percent, depending upon whose statistics you want to use, could provide jobs for its work force if it does not have preferential hiring practices?

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A case in point is the development of the offshore oil resources in Newfoundland, and the expertise which has developed in Alberta, which has a very low unemployment rate. We have to afford some degree of opportunity to local people in these particular projects.

I find it inconsistent, on the one hand, that we would support the right of provinces to have preferential purchasing practices, yet, on the other hand, we would, in the interest of maintaining the economic union, support the principle of labour mobility.

If we had an unemployment rate in Newfoundland of 3 per cent or 4 per cent, which is the rate in Alberta, the provincial hiring practices would not be necessary.

Sykes Powderface (Vice-President, National Indian Brotherhood of Canada), p. 86

There are two other provisions that are troubling. Section 6 provides for mobility rights. The reserve system involves a restriction on mobility. Indians are free to live on or off their reserves, but non-Indians are restricted in their access to reserve lands. It must be clear that Section 6 cannot be used to attack the reserve system. Section 3 provides that every citizen has the right to vote, without unreasonable distinction or limitation, in any election of members of the House of Commons or of a legislative assembly. The term “legislative assembly” is not defined. As a generic term, it could be interpreted to include an Indian band council. It must be clear that Section 3 cannot be used to enable non-Indians, who are resident on reserve lands, to vote in Indian government elections. It should also be clear that Section 3 cannot be used to invalidate the residency requirements in northern areas that have been proposed by the Dene and the Inuit, to ensure that

the permanent native populations have political power, rather than the transient Euro-Canadian population.

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December 18, 1980: Nick Schultz (Associate General Counsel, Public Interest Advocacy Centre, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 29, then scroll to p. 22)

With respect to mobility rights, the limitation proposed by Subsection (6) and Subsection (3) seriously discriminates against the poor. Because of the lack of time, I do not propose to elaborate on those, but they are set out on page 17. But NAPO would ask that Subsection 3 be deleted in its entirety.

Richard Splane (President, Canadian Association of Social Workers), p. 149

On Section 6, the mobility section, and I was interested in hearing it discussed earlier this evening, we have particularly strong feelings. We do not feel that the subsection of that act which makes the mobility principle, which we strongly endorse, subject to, and I quote, any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

We think that that is a dangerous provision. Some of us who have been in the social welfare field for many years remember what the situation was in the 1930s, not only in the 1930s but in the 1940s and 1950s, the situation was deplorable in terms of provincial barriers. A great deal of social work time was taken up in dealing with residency requirements and sending people back across borders and the like.

The action taken by the Unemployment Assistance Act in 1956, 1957, was the first measure which effectively began to outlaw that practice and it was followed up by the Canada Assistance Plan, which makes any province which signs the agreement under the Canada Assistance Plan must not make residency a condition for assistance.

What we would fear is that if a constitution came back with this kind of provision in it, that that would weaken that piece of legislation.

We are at the same time very concerned about the fact that it now exists, that it takes 90 days for one to achieve entitlement under the medical care program and we deplore that and feel that that should be removed. So our suggestion about Section 6, Mr. Chairman, is that the section that I have just read should be struck out of the legislation.

Margaret Mitchell & Richard Splane (President, Canadian Association of Social Workers), p. 154

Mrs. Mitchell: It seems to me that in your brief Section 6(3)(b) is particularly important, and I think it is particularly important to the Committee. I would imagine you are probably the only group that has really stressed this as strongly as you have and I would certainly hope that will draw attention to this.

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Concerning the mobility, the limitations on mobility rights, you have mentioned that you are concerned that there would be abuses of the rights to social services and, I imagine, such things as transients being refused services as they move from province to province, might be one thing. Perhaps you have some other examples that would bring this clearer to the Committee and I wondered what changes you would propose from the present provincial eligibility for social assistance. Are you saying that there should be the same kind of eligibility right across Canada and there should be no restrictions at the provincial border based on residency?

Mr. Splane: Yes, Mr. Chairman. The most difficult case, the most difficult kind of residence requirements is that which relates to social assistance to persons coming into a province and being in need very soon after they arrive.

This right to refuse assistance and to send people back to their home province, in quotes, was so strongly felt in the thirties, and forties and fifties, that when the Unemployment Assistance Act was passed in 1956, one province stayed out for a full year fearing that if it signed an agreement which prohibited it from making residency a condition for assistance, that they would be flooded by persons coming into that province.

I did not happen. It has not happened with the Canada Assistance Plan. I see no reason why, if that most controversial aspect of social benefits, residency, can be removed in that case, why it cannot be removed for health services and for any other kind of social services that might be needed by a family or an individual moving from one province to another.

Mrs. Mitchell: Yes, I think another example that is very dramatic in our memories on the west coast and perhaps in other provinces, is the mass movement of young people some 10 years ago, when they moved, were hitch hiking across the country and, in many cases, were forcibly removed back home without perhaps due consideration to the particular needs.

Appendix “CCC-6”, Submission to Special Joint Committee by The Public Interest Advocacy Centre & The National Anti-Poverty Organization, p. A:8

45. With respect to mobility rights, the limitation proposed by subsection 6(3) seriously discriminates against the poor. First, paragraph 6(3)(a) will perpetuate the pernicious provincial practice of preventing competent out-of-province tradespeople from pursuing a livelihood in the province by refusing to recognize out-of-province qualifications. A right to move is no comfort if you cannot work when you get there. Second, paragraph 6(3)(b) identifies a specific class of Canadians namely, those on welfare and then deprives them absolutely of the right to move. This is blatant and unjustified discrimination. Finally, paragraph 6(3)(a) would appear to permit the continuation of those provincial laws of general application which restrict movement and

residence, except for those which discriminate among persons “primarily” on the basis of “province of present or previous residence”.

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January 6, 1981: Diana Davidson (President, Vancouver People's Law School Society), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 32, then scroll to p. 13)

With respect to Section 6, I am going back to Section 6 now, that section has generated a lot of interest, particularly from people in remote communities.

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Some compromise must be worked out between the interests of the residents of outlying areas and the interests of persons prepared to move to an area because of a particular job or because of a particular construction project. In that connection, I was interested in the submissions of the Honourable C.W. Pearson from the Yukon. Interested and touched, excited. Excited, to find that he had come and what he had to say and particularly with regard to the habits that can come out of those temporary swarms of people in and out of the community.

It can often create an impossible situation in which the people who are committed to an area are temporarily inundated with transient people who, when they leave, leave behind an upheaved economic situation and leave financial responsibilities for community projects which must be paid for by those remaining behind.

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January 7, 1981: Peter Gordon (Chairman, Business Council on National Issues), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 33, then scroll to p. 135)

Third, and this is reflected in rudimentary fashion in the government’s present proposal for a charter, we believe that the good of the Canadian economy requires broad protection of mobility rights—not just the mobility of citizens in search of a livelihood but the right of persons to move goods, services, capital, entrepreneurship, freely within the territorial boundaries of Canada.

We believe that economic efficiency requires that we distinguish between maximizing the size of the nation’s economic pie and distributing that pie equitable among Canadians. We further believe that steps towards more equitable distribution should be carefully calculated so as to minimize the necessary trade-offs in terms of failing to achieve the maximum possible national output.

It cannot be stressed enough that Canada's domestic market is very small by comparison with that of the world's major trading blocs. In fact, with a population of less than 25 million people, it is one of the few advanced economies without free trade access to markets in excess of 100 million people.

It needs to be free as possible of internal barriers in order to permit Canadian firms the broadest possible base from which to compete internationally.

If large economies like the United States and the European economic community need free internal movement of economic factors in order to be competitive, how much more must a small economy like Canada need that exact freedom? And yet provinces have increasingly during the past several years taken measures designed to interfere with the economic free flow of goods, services, labour and capital in the hope of boosting the local economy and generating additional employment.

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This trend seems likely to continue. But this progressive fragmentation makes it more difficult for Canadian firms to develop in the most efficient manner, and as a result jeopardizes the very basis of our position as a high-income industrial nation.

Of course regional development can be a legitimate political objective. All we would argue is that where governments wish to interfere with the natural processes of regional economic change, they be required to reach specific agreements amongst themselves and treat such agreements as exceptions to the general constitutional rule.

Even though such exceptions will occur, it still is our contention as representatives of the business community that the preservation of relatively free interprovincial trade within the Canadian federation is essential to the economic welfare of all Canadians.

However, the common market can be protected in many ways, either by the constitution, by the courts or through co-ordination of both levels of government, as long as the economic system is acknowledged and protected.

January 7, 1981: Senator Roblin, p. 139

Senator Roblin: I am hopeful that in this Committee we may be able to devise some amendment to the material before us to cover this whole area of delegated legislation because right now it has escaped the net, it has fallen through and it is at large and it is loose and I agree with you it is not good.

I want to ask some questions about the subject of the common market within the Canadian Confederation because I think you also touch a very important point there. The bill itself, if it goes unchanged, deals with only one aspect of the common market, I suggest, and that is the movement of people. And even that has run up against some problems as I may mention in a moment, but while our original Confederation compact provided for no tariffs between the provinces of this country, they were not aware of the fact that we were going to be smart enough to develop nontariff barriers to trade. It seems to me that if we are considering the common market aspects we will have to go beyond this question of the movement of persons which we have in this material and ask

ourselves what we are going to do about the nontariff barriers of various kinds which jurisdictions can create.

Now in the GATT negotiations, they faced the same problem and they have devised a series of rules by which nontariff barriers will be assessed to make sure that they are minimized. Do you think there is any possibility of our taking a similar approach or have you a better idea as to how we might codify this common market of ours so that we can deal not only with the question of interprovincial tariffs which are forbidden, though some of them creep in I think all the same, how we can deal with these other nontariff barriers to trade between the provinces?

**James McGrath & Peter Gordon (Chairman, Business Council on National Issues),
p. 152**

Mr. McGrath: Some of us know that all too well, sir.

With regard to the impact of some of the proposals before us on the economy, Mr. Irwin has referred to mobility rights, you have referred to the need to, and indeed Senator Roblin pursued this area, the need to knock down non-tariff barriers within Canada, but he also identified the dilemma that is Canada in terms of the regional dimension of the country economically. And of course, that is a uniquely Canadian problem because, coming from as I do from one of the— although it is a term I do not like to use, but it is one that is in vogue—one of the so-called have not provinces, with continuing high unemployment we have to take extraordinary means sometimes to try and protect what is a very fragile provincial economy.

And there are other sectors of the economy which sometimes require the intervention of the federal government, for example, I am thinking of the agricultural sector where, through the provisions of the National Farm Products Marketing Act, we have restricted the free flow of certain commodities across provincial boundaries. For example, eggs are restricted, turkeys, chickens, to name just three.

Whether or not that is in the interest of the country, and whether or not that kind of leadership leads to other kinds of non-tariff barriers created by the provinces is probably a question that has to be addressed.

But it would seem to me, that as national companies, you would have to recognize this reality of Canada. We don't have to compete with your industry in the part of the world I come from, apart from, I might say the steel industry in Nova Scotia, which as you know, is going through some very difficult times and it will require government intervention, massive government intervention to keep that steel industry operative because of its importance to the economy of Nova Scotia.

What I am trying to say to you is we appreciate your concerns, but I think there is a concomitant need to recognize that for some considerable time, we will have to take whatever steps are necessary to protect regional economies, provincial economies and try and reconcile in some form of national industrial strategy, the need to accommodate regional and provincial aspirations in trying to build our economies.

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Mr. Gordon: I think it would be less than realistic for any of us here to suggest that there are not times when regional economic needs dictate actions that are to be taken. Our only suggestion this evening is that these should be done after very considerable consideration.

I think there is a proliferation of that sort of thing across the country, not all of which is supportive to the Canadian economy or in fact to those areas which it is choosing to serve, and I hope nothing we have said would detract from that.

We understand the problems of this large, thinly populated country with its difficulties in a lot of areas right across the dominions.

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January 8, 1981: Professor Max Cohen (McGill University), speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 34, then scroll to p. 56)

For example, I think I would have gone farther on mobility rights. We supported mobility rights, thought in fact that the Charter was a little less hesitant in the area of protecting mobility rights, not merely the right to move and achieve the opportunity for employment, but I could not see why the concept of the ownership of property, the concept of the movement of capital, goods and services, subject to reasonable local limitations made necessary by the circumstances, should not somehow find its way into the Charter.

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Otherwise, you face a dilemma in the future, you face a restrictive interpretation problem which, at the end of the day, will increase the feeling on the part of local legislators that they have a great deal of scope for restrictive legislation, and I think that would not be wise to do. You want to find language of a kind of balance where the provinces, yes, may experiment with land ownership on a local basis, for example, Prince Edward Island; yes, may give preferences in affirmative action programs to their own people if need be, for example, as in Newfoundland; but no, not to so encourage the dimension of localism that it really interferes with the basic economic union which this country is partly all about, because if we are not an economic union what are we, at the very least on a nonspiritual level? On the spiritual level I presume, Mr. Chairman, we are something else; but on the material level we are certainly at least an economic union. I do not get that feeling from the mobility rights provisions, the adequacy of emphasizing the economic union character of the Charter.

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January 8, 1981: Pierre Gimaiel & Jean Chrétien, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada

(click [HERE](#) to view a PDF of the Special Joint Committee, Issue 38, then scroll to p. 89)

Mr. Gimaiel: [...] I would like to know, Mr. Minister, whether the minister and first ministers you met with this summer showed a willingness to eliminate regionalistic legislation which is designed to limit the movements and activities of Canadians. Did these people assure you that if they were able to rebuild the country and rewrite the constitution without including a charter of rights, they would eliminate these restrictions and take a broader view than that of the residents of their provinces, a view that would include the residents of other provinces as well?

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Mr. Chrétien: I must admit, Mr. Gimaiel, that our experiences in this area over the summer were not very positive. Our mobility proposal met with a great deal of resistance.

Canada is a country that is founded not only on openness to citizens of other provinces and other countries.

People from all parts of the world contribute to the building of Canada and I think that this is a very positive thing.

At this time, however, there is an unfortunate tendency to make short-term political gains by imposing restrictions that would have a negative impact on the future of the country. The weak always end up picking up the tab for disputes about discrimination.

Quebec may be stronger than Newfoundland and weaker than Ontario but I think that this is a very dangerous process, because when the time comes to retaliate, the strong always win. I personally believe the enshrinement of the right to education in French outside of Quebec and in English in Quebec will lead to higher mobility for Canadians. If the Fathers of Confederation or the legislators in 1905 had had the foresight to include the right to education in French throughout Canada in the constitution, our history might not have been the same, because labour force mobility has been incredibly limited b) the lack of educational facilities for Francophones in the rest of the country.

What can I say! We have all heard of Quebec families who went to live in English-speaking provinces in the West. After two or three generations, the Boisvert became Greenwood and the Chrétien became Christian because there were no French schools in the cities where they were living. Some may say that it is too late. I believe that it is never too late to do the right thing. To me, it means something to be a Canadian.

I got the impression from our discussions this summer that we were moving towards having ten different sets of citizenship papers within Canada and I do not like it. That is not the kind of country I want to live in.

Mr. Gimaiel: I am happy to hear you say that, Mr. Minister, because we are often asked why a charter of rights should be included in the constitution. I know that the Official Opposition is demanding that rights not be enshrined until a constitution is patriated. I would like to repeat what

I said before, to the effect that if rights are not enshrined before the constitution is patriated, I will not be able to support the regulation resolution.

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January 16, 1981: Senator Lucier & Jean Chrétien, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 39, then scroll to p. 12)

Senator Lucier: Thank you, Mr. Chairman.

Mr. Minister, I think the one area of concern of the people from the Yukon that has not been dealt with in your amendment, proposed amendments is probably the section dealing with mobility rights and I know that you have had a problem with it but I would like to know why we could not go along with the recommendation that has been made by the government of the Yukon Territories by Mr. Pearson when he suggested that mobility rights for the Yukon could be protected on agreement from both the Yukon government and the Government of Canada.

It seems to me that to just suggest that mobility rights section could not be changed because it would destroy the whole package is not a good enough answer.

It seems to me that the proposal made by the government of the Yukon was a very good one and I would like to have the explanation as to why it was not accepted?

Mr. Chrétien: Because you cannot have mobility for one part of Canada and no mobility for the other parts of Canada. We say that there is some special problems and we have made provisions for affirmative action if need by in the Charter, and we could have employment practices that would still be legal despite the mobility section but it would have to be based on something other than the origin or the location of the person as a citizen of a province and something like that.

I know, for example, that there is a big concern over native employment in Northern Canada, so that this is an affirmative action that is possible but it is not based on region, it is based on social problems that have to be sometime resolved by affirmative action and it is covered there.

However, if we were to make a global exception of the Yukon in relation to mobility, it would be very difficult not to

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do that for other provinces, and as explained yesterday in reply to Mr. Gimaiel from Lac-Saint-Jean who made a very important point that Canada has been built on the mobility of people, and as the whole thrust of this Charter is to make mobility even more possible in the future, especially by the fact that the francophones moving outside of Quebec will have their education in French and the anglophones who decide to go and work in Quebec will have the right to their education in English, I think that increasing the mobility is a desirable goal.

So my view is that most of the programs as developed in the legislation for the creation of the pipeline in the Northwest Territories and the Yukon, the Alaska Pipeline to Canada. most of the plans that we find in that legislation would still be more or less applicable in using the affirmative possibility that exists in the Charter.

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January 22, 1981: Votes on Amendments, in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 43, then scroll to p. 12)

On Clause 6 of the proposed Constitution Act, 1980

Mr. Robinson (*Burnaby*) moved, — That clause 6 of the proposed Constitution Act, 1980 be amended by

(a) adding immediately after line 5 on page 4 the following:

“(2) Canadian citizenship that is lawfully acquired is inalienable.”;

(b) renumbering subsections 6(2) and 6(3) as subsections 6(3) and 6(4) respectively.

After debate, the question being put on the amendment, it was negatived on the following show of hands: YEAS: 10; NAYS: 14.

Mr. Ittinuar moved, — That clause 6 of the proposed Constitution Act, 1980 be amended by (a) striking out the word “and” at the end of paragraph 6(3)(a) on page 4; and (b) striking out line 23 on page 4 and substituting the following: “services; and

(c) any laws or practices that are reasonably justifiable for the purpose of mitigating any environmental or social impact of any activity on the community, culture, economy or society of any of the aboriginal peoples of Canada.”

After debate, at 10:01 o’clock p.m., the Committee adjourned to the call of the Chair.

Serge Joyal, Sven Robinson, Senator Tremblay, Robert Bockstael, Peter Ittinuar, Lorne Nystrom, James McGrath, Ron Irwin & Jake Epp, p. 116

On Clause 6—Rights of citizens to move.

The Joint Chairman (Mr. Joyal): On Clause 6, I have two amendments. Those two amendments are proposed by the NDP Party and they are numbered on your sheet N-8, Clause 6, page 4 and I would like to invite the representatives of the NDP to move the amendments with the proviso that there has been a small correction, and I hope that Mr. Robinson has the correction that I am referring to which is to change a word, the last line that reads,

Renumbering Clauses 6(2) and 6(3)

and substitute the word “and” for “as”. I think it makes sense, otherwise it is something that one cannot understand.

So I would like to invite Mr. Robinson to go ahead with the presentation of his amendment.

Mr. Robinson: Thank you, Mr. Chairman.

I move that Clause 6 of the proposed constitution Act, 1980 be amended by

(a) adding immediately after line 5 on page 4 the following:

(2) Canadian citizenship that is lawfully acquired is inalienable;

(b) renumbering sections 6(2) and 6(3) as subsections 6(3) and 6(4) respectively.

Thank you, Mr. Chairman.

The Joint Chairman (Mr. Joyal): I understand that you would like to read the English version, too.

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Mr. Robinson: I thought there was simultaneous translation, Mr. Chairman. Perhaps they could not follow me.

I will read the English version as well, if you so desire.

The English version is as follows:

That Clause 6 of the proposed constitution act, 1980 be amended by

(a) adding immediately after line 5 on page 4 the following:

“(2) Canadian citizenship that is lawfully acquired is inalienable.”

(b) renumbering Clauses 6(2) and 6(3) as Clauses 6(3) and 6(4) respectively.

That is moved, Mr. Chairman, and I will just speak very briefly to this proposed amendment. I would first like to indicate, Mr. Chairman, that this amendment is proposed following upon the [recommendations of the special Committee chaired by Senator Molgat and Mark MacGuigan, reporting on the Victoria Charter in 1972](#). This was referred to earlier by the Acting Minister of Justice as being an authoritative source, certainly on another point. I trust that the wisdom which was applicable in that instance may well extend to this particular point.

Mr. Chairman, what is suggested is that with respect to the Victoria Charter that, and I quote from the report,

In Canada, a nation of immigrants, it is entirely fitting that the constitution should provide that citizenship, once legally acquired, should be inalienable.

Mr. Chairman, I think this is a particularly important amendment in view of the fact the concept of citizenship is central to a number of other concerns. For example, in Clause 3 of the proposed Charter of Rights, it is every citizen of Canada who has the right to vote in an election of the members of the House of Commons or of a legislative assembly. Nowhere is this concept of citizen defined. So by defining citizen in an arbitrary manner, the fundamental right to vote, to hold office or to be a candidate for election could be tampered with.

So Mr. Chairman, It is fundamental, I believe, and also in other provisions in clause 6 there is the reference to citizens of Canada, but nowhere is this defined in the Charter. It would remain to be defined presumably by the Parliament of Canada as Parliament so desires. In order to recognize the fundamental importance of this right, citizenship once lawfully acquired cannot be taken away by the government, cannot be stripped away, a citizen cannot be exiled, for example, this amendment is being proposed.

Now, an argument may be made that there are problems with dual citizenship. Well, Mr. Chairman, if that is the case, if there is a serious concern about dual citizenship and evolving law in that particular area, if that limitation on this right can be demonstrably justified and is reasonable pursuant to the

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provisions of Clause 1, then it can be defended. If not, it would be struck down and it would deserve to be struck down.

Mr. Chairman, Clause 1 applies to the proposed amendment which we are moving to Clause 6, and I would comment it to members of this Committee.

The Joint Chairman (Mr. Joyal): Thank you very much, Mr. Robinson.

Do I see any other speakers? Yes, honourable Jake Epp.

Mr. Epp: Mr. Chairman, I understand that you have accepted only the first amendment to Clause 6, namely the citizenship and we will be supporting the NDP amendment.

The Joint Chairman (Mr. Joyal): Thank you very much, Mr. Epp.

Mr. Irwin.

Mr. Irwin: Just briefly, Mr. Chairman, because it is getting late. I would like to set out our position on this particular clause.

This constitutional hearing has almost had a life of its own from a simple idea of a patriation with a formula; we got into minority language rights, charter rights ...

Mr. McGrath: I see more of you than I see of my wife.

Mr. Irwin: No, I see that I was here 61 times and you were here just a few less than that.

Mr. McGrath: That is right, that is what I am saying, I see more of you than I see of my wife.

Mr. Irwin: I have only seen my wife about 20 times within that 61 times, so that is a possibility.

The Joint Chairman (Mr. Joyal): I know, Mr. Irwin, that the Solicitor General is with us too and there is a new initiative in the penitentiary system which is the contact visit.

Mr. Irwin: As long as I am given conjugal rights, Mr. Chairman.

The Joint Chairman (Mr. Joyal): Go ahead, Mr. Irwin.

Mr. Irwin: Now, what has happened is in fact from a very simple concept; we have had groups come from across Canada, hundreds of them, and wanting to add on, add on, add on, and I quite agree with many of the things that the NDP Party has done and especially on aboriginal rights. But there are certain things that are not ready to go into that charter. We cannot enshrine everything in Canada. Today we heard "God", "union", "citizenship" as if we were opposed to those things. If we were opposed to those things, we would not be with our back up against the wall trying to get these rights through.

Now what is wrong with what you are saying? First of all, you have legislation now that says, for instance, Section 7 of the Citizenship Act that you can lose your citizenship abroad if you are the child of a Canadian citizen who is born abroad, in other words, a grandchild, unless by the time you are 28 you

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apply. Now what would happen to that? That would go by the board, that legislation. We have legislation in other countries, especially the United States, where you are required to renounce your Canadian citizenship. Now what do we do with Canadians who want to go to the States. If it is an inalienable right, as you say, then they will not be able to renounce that citizenship and become an American citizen. The list goes on and on, income tax, dual citizenship. I think, really, your morals are good but your definition, at this point, is not well conceived and I do not think that we are prepared to keep throwing more and more and more things in because they smack of apple pie and motherhood. I think our charter is a good charter now and it has your support and I think we should get it on and over with and then start dealing with many of these things that have been espoused, the marital status, the handicapped, the Section 133 provisions in Ontario. We just cannot put every good thing, as you can conceive, like a shopping list because that is what it is at this late stage, a shopping list, this particular Charter, no matter how well intentioned your motives are.

Thank you, Mr. Chairman, and consequently, we cannot support this particular amendment.

The Joint Chairman (Mr. Joyal): Thank you very much, Mr. Irwin.

Mr. Robinson, to conclude on the proposed amendment.

Mr. Robinson: Mr. Chairman, I just wanted to respond to the suggestion made by Mr. Irwin that somehow Section 7 of the Citizenship Act might be affected by this or that, that this particular right, which we regard as a fundamental right, certainly, is somehow not that essential. We had perhaps one of the most moving and most eloquent presentations made to us by the Japanese Canadians, Canadians of Japanese origin who pointed out the atrocities that had occurred to them during and after World War II.

If this amendment is not accepted, a possible consequence could be that citizenship could be stripped totally arbitrarily from persons who are Canadian citizens.

It could be argued that Clause 15 might apply in those circumstances; but I think we have to recognize that there is still a very serious concern about that particular aspect: Clause 15 does deal with race, but it is possible that there could be other grounds of discrimination in dealing with the area of citizenship. Mr. Chairman, it would be important that we recognize the fundamental right of citizenship and should defend it as being inalienable, and subject only to the demonstrable justifiability test.

The Joint Chairman (Mr. Joyal): Thank you Mr. Robinson. I would like to call the vote on the proposed motion.

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Amendment negatived.

The Joint Chairman (Mr. Joyal): I would like to invite the representatives of the NDP party to move the next amendment which identified as N-9, Clause 6, page 4.

The Honourable Senator Tremblay.

Senator Tremblay: On a point of order, Mr. Chairman.

The Joint Chairman (Mr. Joyal): The Honourable Senator Tremblay on a point of order.

Senator Tremblay: Perhaps I should have raised this point earlier. It is strictly a matter of form. When we prepared our amendments, drafting specialists, after the government had tabled the initial text of its amendment, asked us to formulate our amendments as amendments to the proposed government amendments.

I simply want to bring your attention to this, and my intention is not to create problems of procedure, but only to confirm if this is the manner in which our amendments must be drafted, and if so, our friends from the NDP Party could stand their amendments so they will not be declared inadmissible, if I am right.

The Joint Chairman (Mr. Joyal): I think that the draft version from the Department of Justice who are helping the representatives of the NDP, have taken into account that there are already proposed amendments to the main text, and so, of course, the amendments proposed by the New Democratic

Party are prepared to some extent, as amendments to the amendments already proposed by the government, for which we already have the text.

Senator Tremblay: So when amendments are not drafted as the ones before us, the legal services check out the technical aspects.

Le copresident (M. Joyal): Essentiellement, oui. I would like then to invite ...

Mr. Bockstael: On a point of order, Mr. Chairman.

The Joint Chairman (Mr. Joyal): Mr. Bockstael, a point or order.

Mr. Bockstael: I would like to point out to you, Mr. Chairman, that you were one of the fortunate ones. You get these amendments in writing; but we still do not have the next amendment in writing.

This ad hoc system of the NDP giving us little titbits at a time without any opportunity to peruse the amendment is not very practical.

The Joint Chairman (Mr. Joyal): Thank you very much, Mr. Bockstael. I will make sure that the proper amendments are circulated. I would like to point out that the amendment we are dealing with now is the one identified as N-9, Clause 6, page 4.

I will make sure that sufficient copies are provided to honourable members so that they would be in a position to

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understand and debate appropriately the contents of the proposed amendment.

It will not be long Mr. Bockstael. I would like to point out, too, that it is a major point, that if we want to give proper consideration to an amendment, then members should have it at least in sufficient time to be able to read and think about it.

I see that all honourable members have a copy of the proposed amendment, and I would like now to invite Mr. Ittinuar to make the usual presentation.

Mr. Ittinuar.

Mr. Ittinuar: Thank you, Mr. Chairman.

I move that Clause 6 of the proposed constitution act, 1980 be amended by (a) striking out the word "and" at the end of Clause 6(3) (a) on page 4; and (b) striking out line 23 on page 4 and substituting the following:

services; and

(c) any laws or practices that are reasonably justifiable for the purpose of mitigating any environmental or social impact of any activity on the community, culture, economy or society of any of the aboriginal peoples of Canada.

Mr. Chairman, I would like to have my colleague, Mr. Lorne Nystrom, read this in French parce que je ne parle pas francais.

Mr. Nystrom: Thank you, Mr. Chairman. It is moved:

Que l'article 6 du projet de loi constitutionnel de 1980 soit modifie par substitution aux lignes 22 a 24 de ce qui suit:

(c) aux lois et usages dont la raison d'être se justifie par le souci d'attenuer les consequences ecologiques ou sociales defavorables de toute activite susceptible de toucher les peuples autochtones du Canada sur les plans collectif, culturel, economique ou associatif.

And now, with your permission, I will let Mr. Ittinuar explain his amendment to the members of the committee. Thank you

The Joint Chairman (Mr. Joyal): Mr. Ittinuar.

Mr. Ittinuar: A very brief comment, Mr. Chairman, in support of this amendment.

This was proposed to this Committee by the Inuit Committee on National Issues on behalf of the Inuit population of Canada.

I would also point out that four major groups from North of 60°, from the Yukon Territory and the Northwest Territories made similar proposals, particularly the Council of Yukon Indians, the Yukon territorial government, the Northwest Territorial Government and the Inuit Tapirisat of Canada all made similar proposals as amendments to this Charter to this Committee.

I believe that speaks fairly well for the truthfulness of this proposed amendment.

Perhaps one of the most famous examples of this, why there should be this kind of amendment in the constitution is the famous Berger Commission. We are not trying to stop com-

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pletely any development in the North. We are not trying to stop completely the influx of masses of workers into the North.

However, we are trying to mellow it out so that northern culture is preserved; and by "northern culture" I do not mean that it will be an ethnic or racial state or any other kind of state where there are lines based upon human differences. There are none.

People in the North are comprised of all colours, races, creeds, mores and customs.

Neither the Yukon territorial government nor the Northwest Territorial government is known for their humanist values in the North. However, they saw the need to include such clauses in the constitution proposed to you, that they should be well understood by members of this Joint Committee. The North is easily the most susceptible to development in terms of impact on the areas of environment, social, cultural and economic and linguistic problems.

I would ask this Committee to understand the fact that there has already been cases in which language has been lost, especially in the case of the Western Arctic, Inuvik and those areas.

If there is anything more to be said on this, it is that if the Joint Committee does not agree to such amendment—and I do not like to impose any sort of blame on anybody for any impending situation anywhere; however, I think members of this Joint Committee may be compelled to feel that any impending destruction of culture and society in the North could well be blamed to members of this Committee and any decisions after this.

[...]

Mr. Nystrom: I want to begin by picking up on a point made by Bob Bockstael and saying very seriously that I think we are dealing with one of the more important amendments to come before this Committee.

If Committee members do not believe that they have had enough time to consider it seriously, perhaps when we have finished with our discussion, we could consider standing it rather than making a very quick decision in rejecting it.

I say that, because the amendment here is no surprise. It was recommended, as my colleague, Peter Ittinuar has said, by four groups which came before our Committee, namely the Inuit peoples, the Indian peoples in the Yukon and the territorial governments of the two territories.

I am convinced that that is a very important amendment for the North of this country, not just to the Inuit or Indian people, but to all people in Northern Canada.

So if some members have not had an opportunity to study it thoroughly, I think rather than just saying “No”, because of the pressure of time or the lack of time to reflect on it, perhaps we could just stand it, Mr. Chairman.

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I would like to make four or five arguments that I think members should consider.

[...]

Mr. McGrath: I listened to my colleague, Mr. Ittinuar, introduce a motion. I then expected an intervention from the government side in reply to Mr. Ittinuar; and then perhaps we would go to our side when one of my colleagues would reply, and then we go back to the NDP. That seems to me to be an orderly way in which to conduct the debate.

Now we are getting two major interventions and that is the second time it has happened today one after the other.

If that is the way we intend to proceed, then fine, but would just like to point out that this is not really conducive to good debate.

[...]

Mr. Irwin: Thank you, Mr. Chairman.

First of all, I would like to say to Mr. Ittunuar, that I do not think there is a member of this Joint Committee on either side of the House who was not touched by the 17 delegations that we heard—everything from the Micmac of Newfoundland to the Indians of British Columbia of which Mr. Fraser knows so much.

I think, though, that process, a great deal of progress was made, and I was very pleased with the inclusion of at least the word “aboriginal” for the first time in an official document. It could not even make a by itself substantive judgement in the Supreme Court of Canada.

I was very pleased that there was some movement on the part of the government in that respect. I was also very pleased that money was allocated for investigation and that the Prime Minister is prepared to talk about the various Indian problems at the First Ministers’ conference.

However, having said that, I would like to say there are things which bother us about this particular amendment. What does the phrase “reasonably justifiable” mean? Is it subject to the standard in Clause 1?

What is the economy of the aboriginal people? What is the culture? What is the society of the aboriginal people?

Do we want a provision in the constitution based solely on race?

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On the northern pipeline, for instance, there are at present clauses which restrict employment to natives and women and residents in that area. We do not support that.

We support natives and women, but not to specific residents in that particular area. We think it should be open to all natives, and all women in Canada.

So we do have some philosophical differences on this particular clause.

While we are trying to balance mobility and culture—which is very important, culture; you can trace my track record for the past five years when I was going around the country saying exactly the same thing, when I was on the CRTC—having looked at that balance, we are not prepared as this time to support this particular clause.

[...]

Mr. Epp: Thank you, Mr. Chairman.

This amendment which has been put forward by my friend, Mr. Ittinuar, is one which I think is put forward with a lot of sincerity, and is also a reflection of the development of northern Canada as it is seen in the eyes of many people there who want development but in such a way that they could retain their culture.

I must admit, Mr. Chairman—and I am not trying to stretch the limits of your indulgence—that I find whole question of Clause 6, the mobility clause, very difficult; because while I support mobility in principle—and I will refer to that when I get to the clause—I feel this is one clause where we have not spent sufficient time on in terms of witnesses and of evidence.

There may be members of the Committee who may disagree with me on that; but I think the record would indicate that there is some truth to what I have said.

It is for this reason, Mr. Chairman, that I was hoping that we would have a Minister of employment and immigration before the Committee, because this matter has far-reaching impact on not only the North, and specifically on the North, but it goes well beyond that.

If we were to ask the Canadian people, “Are you in favour of mobility rights?” And went on to say that mobility rights are interpreted that you have the right to travel anywhere in Canada and to hold a job or to have a business, then the answer it yes—almost 100 per cent. I think members around this Committee table would have very little difficulty with that concept in that philosophical framework.

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But you run into two problems once you leave that. One problem you run into is the long discussion which took place this summer in the topic known as “Powers over the economy”. There was no agreement between the federal and provincial governments on that topic.

Here we are now thrust into that debate, the debate not having ended or taken to any conclusion or resolution; and we are suddenly thrust into it and we are now to make a decision.

Now, we on this side can say that at least we are not caught in the same dilemma as the government and the NDP because we will not support the imposition and we will refer the whole matter back to the provinces at the appropriate time through a motion.

But that does not take care of the problems of Mr. Ittinuar and the residents north of 60°.

There is, without question, a need—and I am speaking specifically to the amendment now—a need to protect the environment, to be conscience of the social impact of development, and at the same time balancing development in that area, and the need for development.

I am worried frankly that if this were to pass—and I say this to Mr. Ittinuar; he and I have established a relationship where we can have these discussions—it worries me that we would have

the same difficulty if this were passed—the same difficulty across the north as the difficulty which I feel has developed through the Berger Commission.

While there has been certain advantages from the Berger Commission, there has been—and we should be blunt about it—difficulty on individual lives and individual development through the MacKenzie Valley.

That is just the reality that we face.

For instance, in legislation—and I thought Mr. Irwin made the case very well for us—in legislation in many of these areas of social policy it would be much better to leave it to the legislators, to Parliaments, the legislative assemblies to pass legislation like the Northern Pipeline Agency Act, where we then have in fact incorporated a number of these principles in legislation for a specific project. I support that.

To put it in the constitution and to be able to use now that constitutional provision, to literally freeze the north through litigation, I do not think is of service to the northern people and when I say that I fully admit to Mr. Ittinuar immediately that I am not addressing specifically his problem either.

So, what I say to you, Mr. Chairman, is that the intention is good, but while it is so broad I want to come back when this amendment has been taken care of to get into the question of mobility, because I have many questions as to how do we protect the North, the residents of the North, not only the social impact of development but that proper development can take place and they can have some advantages.

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I disagree frankly with Mr. Irwin when he says that he is not in favour of summer residency requirement. I say to you, in all frankness, the 25,000 people in the Yukon or the 45,000 in the Northwest Territories, if you are not going to have some provisions whereby they can have some advantage from the economic development which is going to take place in that area, some protection, then you are not recognizing the reality that exists there.

I say to you frankly that if that is not addressed around this table and not at three minutes to 10 o'clock one evening, then we are not doing justice to those people or to Canada and some of us very firmly believe that the future of Canada is north of 60. But I think that future is to be orderly.

I say to Mr. Ittinuar, with as much frankness as I can muster, that there are many of the principles I endorse and support which you have in your amendment.

I disagree with their inclusion at this stage, but I would say that I would want to get back to the mobility question because you have some valid points and somehow we have to cover the mobility question. You are right on that.

[...]

Mr. Nystrom: Thank you, Mr. Chairman. I would like to continue with the comments I started a few minutes ago.

First of all, since I feel so strongly about this issue, I would like to pick up on an argument that Mr. Epp was making that he should be leaving some of this to the legislatures.

I would like to point out that, in my opinion, in this case we are not dealing with an area of Canada that is a province. The Northwest Territories are a territory. They do not have a provincial legislature.

If they were to try to pass legislation in the territories, despite the fact that they are not a province, then they are up against that disadvantage to begin with.

They are also up against the additional disadvantage that we have already passed, assuming that this goes through, a charter of rights in our constitution which calls for mobility rights, and the mobility rights here are pretty strong, saying that every citizen of Canada and every person who has the status of a resident has the right to move to and take up residence in any province and to pursue the gaining of a livelihood in any province.

I gather from your earlier explanation that this also applies to the territories.

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So, I would think with respect to Mr. Epp, I would think if this charter of rights goes through as written, that the Northwest Territories, indeed the Yukon, would have very little clout; it would be a loaded dice—a stacked deck in essence for the people of the north.

Since it is getting very close to 10 o'clock, I would like to request or suggest, rather, that members think about this over the evening and come back tomorrow morning, because it is a very important issue.

What Mr. Ittinuar is saying here is that this is not something that is absolute. If you were to check the wording here you will see that he and his people are applying and suggesting that there be a reasonableness test, and that any laws or practices which are reasonably justifiable—so if something is not reasonable it can be struck down by the courts. So you have to be reasonable, and you cannot be extreme or foolish. We always have that protection.

The other matter is that in Mr. Ittinuar's amendment, what he is suggesting is also subject to the rights in Clause 6(2). Clause 6(2) of course, concerns itself with the mobility rights, the freedom to move in any province, to settle in any province and so on.

So what he is suggesting here is subject to all of those rights.

I think, Mr. Chairman, that there is adequate protection there. He is not trying to build a wall around the North or turn it into a ghetto for the people living there now. He has made that very, very clear.

Perhaps if there is some doubt with regard to the specific wording, perhaps we can get some of the experts to clarify it.

But the arguments of Mr. Ittinuar are very important, very important for the way of life in the north. The way of life in the North can be easily disrupted by the huge projects, by a lot of people coming in from the south, bringing several thousand workers with all the problems that creates in northern Canada where there are not many people. It can be a tremendous disruption on the lifestyle of the north and on the social impact in the north, the culture, the economy of the north.

We all know of circumstances and situations where it has already happened.

The second point that Mr. Ittinuar has mentioned which, in my opinion, is vitally important is the area of the environment.

We all know the problems of the permafrost in the north, the fragility of the environment and if you have a project—and I see I am being cut off, Mr. Chairman; it is a couple of minutes after ten o'clock. Perhaps we will call it 10 o'clock and deal with this tomorrow morning.

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January 23, 1981: John Fraser, Lorne Nystrom, James McGrath, and Eymard Corbin, speaking in the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 44, then scroll to p. 121)

The Committee resumed consideration of the motion of Mr. Ittinuar,—That Clause 6 of the proposed Constitution Act, 1980 be amended by (a) striking out the word “and” at the end of paragraph 6(3)(a) on page 4; and (b) striking out line 23 on page 4 and substituting the following:

“services; and

(c) any laws or practices that are reasonably justifiable for the purpose of mitigating any environmental or social impact of any activity on the community, culture, economy or society of any of the aboriginal peoples of Canada.”

The amendment was allowed to stand.

Clause 6 was allowed to stand.

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January 27, 1981: Vote on amendment to Section 6 and Section 6 in Special Joint Committee of the Senate and House of Commons on the Constitution of Canada (click [HERE](#) to view a PDF of the Special Joint Committee, Issue 46, then scroll to p. 7)

The Committee resumed consideration of its Order of Reference from the Senate dated November 3, 1980 and its Order of Reference from the House of Commons dated October 23, 1980, both relating to the document entitled “Proposed Reso-

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lution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada” published by the Government on October 2, 1980. (See *Minutes of Proceedings, Thursday, November 6, 1980, Issue No. 1*).

The Committee resumed consideration of Clause 6 and the motion of Mr. Ittinuar, — That Clause 6 of the proposed Constitution Act, 1980 be amended by (a) striking out the word “and” at the end of paragraph 6(3)(a) on page 4; and (b) striking out line 23 on page 4 and substituting the following:

“services; and (c) any laws or practices that are reasonably justifiable for the purpose of mitigating any environmental or social impact of any activity on the community, culture, economy or society of any of the aboriginal peoples of Canada.”

After debate, the question being put on the amendment, it was negatived on the following division:

YEAS:

Messrs.

Fraser
Ittinuar
Robinson (*Burnaby*)—3

NAYS:

The Honourable Senators

Austin
Hays
Lapointe
Lucier
Petten
Rousseau
Tremblay
Wood

NAYS:

Messrs.

Beatty
Bockstael

Campbell (Miss) (*South West Nova*)

Corbin

Epp

Irwin

Lapierre

Tobin

Mackasey

McGrath—18

Clause 6 carried.

Bryce Mackasey, Jake Epp, and Jean Chrétien, David Crombie, Fred Jordan (Senior Counsel, Public Law, Department of Justice), p. 72

Mr. Mackasey: Mr. Chairman, I agree essentially with the statement of Mr. Epp. The other evening, I believe it was Monday, we did suggest that we stand Clause 6 for the very reason that Mr. Epp felt that perhaps this very important mobility right was one area of the resolution which had not perhaps come under the normal discussion which had been the case with other clauses.

As I recall it, Mr. Epp had suggested that we stand it because he had some extensive questions to ask on Clause 6(1). Although it has not been the subject of too much discussion, looking back in the procedure, however it has been raised.

I would like to say briefly that mobility rights raises a problem that perhaps captures the imagination and concern of Canadians to a degree that perhaps many other fail to appreciate.

I think all of us would recall several years ago in the highly publicized difference of opinion between residents of Hull and residents of Ottawa and of Cornwall and Montreal on the barriers against the principle that we should be free as Canadians to travel anywhere in order to gain employment.

As a former Minister of Labour—there are others, of course—one of the vexing problems in the past has been the contradiction between the basic principle of mobility and provincial legislation.

I can cite the Mirabel Airport project which was clearly federal in jurisdiction but was subject to much controversy with the province who felt that the hiring practices in that province should be based upon not only provincial preference but reasonable preference within the province.

It is a subject of great concern, and in all fairness to Mr. Peckford, of great concern before he gave it the type of national prominence with his concern and determination to protect the jobs of the people of Newfoundland or the jobs in Newfoundland.

I might say—and I do not want to talk very long on this—that the general concern that has been raised of course is that, on the one hand, there are people who feel as Canadians in one great country that Canadians should have a right to be able to work anywhere in this country. I suspect we have greater freedom in the European Common Market to do that; there are less barriers there.

On the other hand, there is the legitimate concern of groups, in particular in areas like the North, the Yukon, the territories, and the extremes of the country, who look on mobility as a threat to jobs and they make a very persuasive argument, though it is not one that moves me: because I think Canada is one country and this is one of the fundamental rights.

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In conclusion, one of the witnesses who did speak very much in depth to the subject was Mr. Fairweather as did other witnesses, back on the November 14 in Issue No. 5. When questioned as to his views on mobility, Mr. Fairweather categorically supported the concept of mobility, pointing out on page 5:18 that this should be one of the fundamental rights. I do not propose to read the whole section. It is very lengthy. But I would like to refer members to it. Again, Mr. Fairweather stated categorically that as Canadians mobility rights should be something that we should accept.

[...]

Mr. Epp: Mr. Chairman, I must admit that I am not quite sure what Mr. Mackasey was driving at.

I would like to ask the Minister some questions. Can he tell us how many provinces oppose mobility rights?

Mr. Chrétien: There was general opposition to it. There was general opposition.

Mr. Epp: Could you define “general” for me?

Mr. Chrétien: Ontario supported it and there might be another province Nova Scotia, of course, was the other one.

Mr. Epp: So there were about eight or nine that opposed it?

Mr. Chrétien: Yes, I think so.

Mr. Epp: Did Prince Edward Island approve of it?

Mr. Chrétien: You could ask them. You are asking me a precise question. You can ask them.

I say generally speaking it was opposed. I do not have the minutes here.

Mr. Epp: Well, I have them here. [I am looking at September 10, 1980.](#)

Mr. Chrétien: One of the problems with Prince Edward Island related to the problem we discussed yesterday, that they were preoccupied with the clause on mobility in relation to acquisition of land.

Mr. Epp: What I am saying to you, Mr. Minister—when we discuss mobility I hope you will use the same yardstick that you used on property rights, and that you will also consider the same yardstick on mobility rights because I take it as an honourable man, you would to use the same yardstick.

If you care to take a look at the minutes of September 10, you will find the objection not only of the Province of Prince Edward Island but—if you want the page, it is page 606 and it goes on from there.

I would like to ask you, Mr. Minister, that in view of all that objection—and we can ask the political question later as to how you can feel justified saying you can do it over-riding the provincial powers and on the other hand you could not.

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But I would like to ask you, Mr. Minister, how would Clause 6(1) affect External Affairs' ability to withhold or revoke passports?

Mr. Chrétien: I do not know where you are leading to with your questions.

Mr. Epp: You will find out.

Mr. Chrétien: We have one citizenship in Canada. That is all. That was the debate—whether we had 10 countries, 10 principalities or one nation.

One of the concepts of “nation” that we were having is that when you are a Canadian you have some fundamental rights which you can exercise across the land, and mobility is one of them.

At the time, 85 per cent of the people agreed. You always refer to polls and the polls on mobility was 85 per cent of Canadians were in favour.

Mr. Epp: Obviously, you are low even on that.

What I am trying to ask you, is, have you checked with External Affairs on the matter of the ability to withhold or revoke passports? How would that ability which External Affairs now uses, how might it be affected if Clause 6(1) be passed?

Mr. Chrétien: I do not know.

Mr. Epp: Thank you.

Mr. Chrétien: We have not received any representations from External Affairs, and I have no information that the mobility rights of Canadian citizens will affect his right to have a passport.

Of course, we can always use Clause 1 of the Bill of Rights to apply the reasonable test.

Mr. Epp: Would you not feel it important when that question is asked, that the government should be able to give us a legal opinion on how it might be affected, because that is one of the very strong, central purposes of External Affairs, that is the issuing and controlling of Canadian passports?

Mr. Chrétien: We do not see how that can affect the availability of passports to Canadians.

If we have to restrict the availability of passports to Canadian, there will be laws which can be passed, and the test will be the test of this clause, plus the test of Clause 1 of the Bill of Rights. The courts will decide.

I am informed that this clause, as it is, stands no chance of creating any problems with the ability to get passports, and we have not heard of any problems with the people from External Affairs.

Mr. Epp: Mr. Minister, it is not a discretionary question. You know that the Charter would supercede any regulation or legislation passed. I have not had a satisfactory answer to my question, but I would like to ask you another question.

What provincial labour laws will be affected by Clause 6? Have you had a report from the provinces on that? Do you know what effect they might have on that?

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Mr. Chrétien: We said we should not discriminate against Canadians on the basis of the origin of the province where he is living.

Mr. Epp: That is not my question, sir.

Mr. Chrétien: I do not have any report. You asked me if I have received a report on the number of laws which would be affected by the provinces. I have not received any such report to my knowledge.

Mr. Epp: How long, Mr. Minister, do you feel would the provinces need, even if one sets aside the unilateralism and the encroachment into provincial areas, how long would the provinces need to amend all their labour laws and regulations flowing therefrom? Have you had any discussions with the provinces on that question?

Mr. Chrétien: They know we are aware of the problems and have been following the discussions and they know the timetable. It is up to them. if they feel their legislation is creating discrimination against Canadians in the provinces which would affect the legislation. They have to be ready

They know that we are going ahead and Parliament is about to vote.

I am informed that two provinces have specifically raised some aspects of problems, legislative problems—one is Quebec, and the other is Newfoundland.

Mr. Epp: Are you saying, Mr. Minister, that you feel the federal government in this area of provincial labour laws and regulations flowing therefrom are justified in moving into that area and forcing the provinces to conform to a regime that was not contemplated earlier?

Mr. Chrétien: In giving a Charter to Canadians, rights which would apply across the land equally to all Canadians, we know that might affect some legislation of the provincial governments.

I think in the one Canada that I believe in that such limitation should not exist; and if such legislation exists it should be amended so that Canadians will have the right of mobility available them equally.

Mr. Epp: Mr. Minister, you keep repeating that you feel there is one Canada. There is no argument around the table that there is one Canada. That is now what we are discussing. We are discussing the provincial rights to pass labour legislation which is totally within their jurisdiction to do as it relates to provincial laws and provincial regulations.

What I am asking you, Mr. Minister, is not the balkanization of the country or that we are advocating the balkanization of the country, but you are very seriously bringing into question the right of the provinces or even their perception that they are not part of a larger country.

I do not think that charge is valid.

I would like to ask you another question. There are serious concerns north of 60°, which is totally federal jurisdiction, so let us get away from the provinces for a bit; totally federal jurisdiction where your government itself through legislation such as the Northern Pipeline Agency have in fact passed laws

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which, under Clause 6, would in fact, discriminate. It would discriminate in favour of northern residents and especially, natives living north of 60°.

I have no difficulty with that in terms of the resource development which is to take place in the north, which is to take place, that residents in those areas get first call on those jobs. I think that is also why Parliament passed the legislation relating to the Northern Pipeline.

Have you had any discussion with either the government of the Northwest Territories or of the Yukon? Or the National Indian Brotherhood, or the Council of Yukon Indians, for example. or the Minister of Northern Affairs asking that Minister how present federal legislation would be affected Clause 6(2)?

Mr. Chrétien: Yes, we have had some discussion and I think some of the clauses of this pipeline legislation will have to be adjusted.

There would be the possibility on the part of territorial administrations to have affirmative action programs, but not based on the provincial status—where they are coming from. But there will be the possibility of positive, affirmative action in order to cope with some social problems; for example, in the Yukon the intent was to give preference to the natives, and the preference to the natives bill be a form of affirmative action, but not based upon the location of the province, but upon the social problem.

Mr. Epp: Mr. Minister, are you saying now that the Northern Pipeline Act, that was passed after a fair amount of lobbying and change because of the intervention, the lobbying of the original people

of Canada living in the Yukon Territory, that should this charter pass, that the guarantees that were given before that legislation was passed, that those guarantees might now be put into question?

Mr. Chrétien: I say that the guarantee in terms of giving preference to native employment will remain the same, but the limitation will not be in terms of origin of the person but based on the social problems that have to be affected and cured by giving them a preference in hiring.

Mr. Epp: Have you had any representations from Senator Lucier on an amendment or possible amendment which would protect the people living north of 60°?

Mr. Chrétien: Of course we have talked a few times with Senator Lucier, he has been a very assiduous member of this Committee and is an old friend of mine and he made some points and it is part of the concept of having mobility rights for all Canadians. I have explained that affirmative action will be possible in relation to social problems that exist in one area but it cannot be based on the origin of the person seeking employment.

Mr. Epp: Mr. Minister, I find your action rather difficult to understand. On one hand, when Mr. Henderson comes before you, you move what you fondly call the Henderson amendment as it affects Prince Edward Island. Yet, when the very same

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conditions can prevail in the Yukon and the Senator of that area comes before you, obviously there is no amendment coming forward.

Now, why the double standard?

Mr. Chrétien: It is not a double standard. It is two different problems.

Mr. Epp: Mr. Minister, the question of mobility in terms of the original people, have you considered an amendment to either Clause 6(1) or to an additional subclause whereby, while retaining the right of mobility, the right to move, that the development north of 60°, which is desired on the part of many of us, that that development, though, will be done in such a way that the people living in that area will not only have the right to participate but will also not be inundated by labour which might be highly trained, highly skilled, highly experienced, and that the people living north of 60° have the same potential but have not had the opportunities, and I suggest that your mobility clause will remove not only the ability, the chance to get those skills and experience, but in fact the opportunities that should be theirs.

Mr. Chrétien: We are aware that the development of the north should benefit the residents there and of course there is all sorts of programs to make sure that the labour force gets the proper training to gain the ability and the option of working there.

When I was Minister of Northern Affairs there were many positive affirmative programmes that led to that, and of course some of the great experiments have been, for example the Pan Arctic crews coming from the different villages, they were hired and they were competent to do the work. The hiring would be done there.

What we say is that nobody can be refused a job just because he is not a resident of that territory or that province; but of course, any entrepreneur who hired some people would take people on-site when they are available, but we do not want someone who wants to come, to say: you cannot come because you are from another part of Canada.

Mr. Epp: Mr. Minister, that is not what I am saying. What I am asking you, then, is this: through affirmative action programmes, do you feel that affirmative action programmes will give the opportunities to the residents of the North, as you have now described, that those opportunities will be there and that will not be a violation of Clause 6(2) as it now stands?

Mr. Chrétien: If it is a programme that excludes based on the origin of the person in terms of provinces. that will not be possible, However, if it is to cure problems with affirmative action, for other reasons; for example, suppose, just to give you an example that occurred in my own province, it could be that they decide for a problem in the James Bay they will hire people of the James Bay area, but it is not based on the provinces where they are born: that will apply to the people of Montreal or Ottawa, and they cannot have that type of

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affirmative action in a province where there is no discrimination based on the province of residence.

However, if there is some local problem to be resolved and there is an affirmative action to resolve the problem of that area and it is not based on the province of origin, my opinion is that those affirmative action programs will be acceptable to the courts.

Mr. Epp: Mr. Chairman, I have many more questions, I will not pursue them now and take the time of the Committee, but the last answer of the Minister would almost indicate that there would be no mobility, in fact it would balkanize it even beyond the present provincial regions.

[...]

Mr. Crombie: Thank you, Mr. Chairman.

Mr. Chairman, the Minister may remember because he wears another hat with respect to social policy as the Minister of social policy. that the Canadian Council on Social Development was before the Committee some many weeks ago. In their submission to this Committee they had voiced great concern with respect to mobility rights, particularly as it related to the acquisition by Canadians of the social services.

Clause 6(3)(b) places certain limitations on mobility with respect to the acquisition of federal services, it says that the rights as specified, mobility rights, are subject to, and I quote,

Any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

In their submission the Canadian Council on Social Development had this to say about that section, I will read it very briefly, it is not very long and I want your comment as to whether or not you have resolved their concern.

They said specifically with respect to the limitations on mobility rights:

These clauses will have the effect of limiting mobility rights to the extent of reducing the nation to a series of sovereign states.

Now, you have just indicated, I think probably for the umpteenth time, that your great concern has always been to maintain Canada as one nation and certain fundamental rights provided for all Canadians. The Canadian Council for Social Development has indicated that you were not doing that, that in fact you are focussing, heightening and sharpening the barriers to the delivery of social services for all Canadians.

I wonder if you have been able to meet with them and resolve their specific concerns as they outline them to us in their submission to us?

Mr. Chrétien: Mr. Chairman, we studied this problem during the summer and we have had long discussions with the provinces. We came to the conclusion that giving an absolute mobility right in this matter could create considerable administrative problems.

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What we want in Clause 6 (3)(b), is to allow citizens who move a reasonable residence period before being eligible to certain social benefits, to do so in such a way that the necessary control and the distribution of these benefits to these citizens could be made in an appropriate manner by the provinces.

So, in this matter, if the residence criteria imposed by a province is totally unreasonable in relation to the administrative need that we were told about during the summer, then the courts will judge that this residence requirement is unreasonable. To simplify the administrative problems of the provincial governments, we have accepted to have this condition of reasonable residency before having access to social services.

Sometimes, with the mobility of population, close to retirement age or for other reasons, towards different provinces, we understand that different programs apply. For example, on Vancouver Island, the number of retired persons is a burden for the province. So, we must be satisfied that the person receiving these benefits is really a citizen of the province and is not there only for those benefits.

So, it is in that context that we propose this amendment. It is to allow better administration on the provincial level where it would be permitted to impose a reasonable residency requirement as a qualification for the receipt of social services or benefits.

[...]

Mr. Crombie: [...] The Canadian Council on Social Development had this to say, given the Canada Assistance Plan's recognition of the importance of the portability of social programs, the most important thing about CAP is its portability and its universality, their worry with CAP is that this legislation could strike down or strike at the heart of the universal aspect of the Canada Assistance Plan and therefore reduce benefits for those Canadians most in need.

Mr. Chrétien: We are not worried about it because the agreement under CAP, one of the requirements is that there should be no residence test applied to benefits because it is a shared cost program with the federal treasury, and one of the tests. we say that they cannot apply a residence test because we know for some people it is basic, as you say, the core of the social programs, the residence test there cannot apply under the present agreement that we have with the provinces and we are completely in control of it because we are paying half the cost.

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Mr. Crombie: Could you offer comment on two other programs that are not dealt with financially on a cost shared basis in the same way and therefore might have an entirely different impact, on medicare and on pensions?

Mr. Chrétien: I will ask my advisor to give you the precise answer.

Mr. Jordan: Yes, Mr. Crombie, with regard to the Medical Services Act, my information is that it does provide for a three month waiting period when you move from one province to another, but of course the province to which you have moved is also party to it and will be paying that during the period so you do have a residency requirement there.

On the hospital and services Diagnostic Services Act there is no residency requirement but you can exclude, and I think this is one of the important things that the provinces are concerned about, people such as tourists, transients and visitors from claiming the benefits.

I think one of the provinces presently is considering the prospect of establishing a dentacare program. You can imagine the problems of those people who went into that province to work but resided in the other province and being able to obtain those benefits without . . .

Mr. Crombie: But my particular concern, and I appreciate that and you have described the problem very well, but my particular concern with it is that as the Minister points out, under the cost sharing program there is an opportunity to constantly check whether or not there is any impediment to the universal aspect of it. That is not true with medicare simply because the negotiations for financing and funding of it are entirely different.

So the federal government's ability to deal with the universal aspect of medicare is not nearly as strong, I would suggest, or do you agree, as it is with the Canada Assistance Plan?

Mr. Jordan: That the control the federal government has . . .

Mr. Crombie: That is right. Do you agree with that?

Mr. Jordan: Yes.

Mr. Crombie: Would you agree, then, that this particular section will carve in stone that inability of the federal government to control the universal aspect of Medicare?

Mr. Jordan: Yes, it would enable the provinces as the clause provides to spell out what they believe to be reasonable residency requirements. Of course, the courts would be able to look at that and say is it or is it not in the circumstances of the case.

James McGrath, Jean Chrétien, Senator Roblin, Brian Tobin, Senator Tremblay, p. 82

Mr. McGrath: [...] The Minister, I was intrigued when the minister said that the government would have to change the northern pipeline legislation to conform with the provisions of this section of the bill. My question to the Minister is, there are two provinces that I know of that have local hiring regulations, the Province of Newfoundland and the Province of Nova Scotia. There are other jurisdictions as well, for example, apart from the federal government itself with their hiring practices North of 60°, there are a number of municipalities that have local hiring practices.

My question to the Minister is: have you examined the local hiring practices and regulations of the Government of Newfoundland and the Government of Nova Scotia to determine whether or not they are inconsistent with the provision of Clause 6, because I think you can argue, and there were arguments from a number of witnesses, or at least one that I know of for sure, probably two, that there are certain circumstances where local hiring practices would not in fact be inconsistent with the right of free mobility. In other words, you can move where you want as long as you know that if you move to a certain area you are going to have to take your chances in terms of local people being given the first option to any jobs that may be open there.

Now, I do not have any problem with that but my colleagues, I must confess, do seem to have a problem with it.

Mr. Chrétien: We debated that problem many, many times in front of this Committee. First I would like to say that Parliament has enacted some legislation, but not Nova Scotia. They have passed legislation but they have refrained from proclaiming the legislation and they have indicated that they do not have the intention of proclaiming it.

Mr. McGrath: They do not have the intention?

Mr. Chrétien: They have not given the intention of proclaiming it today, and I do not know what they will do in the future but it is not a problem at this time that is debated in the government. They have not decided to proclaim it. They might proclaim it tomorrow or 10 years from now, but it is not a hot issue, if I can use that term, at this moment.

I think that the problem, as we say, is that there can be some affirmative action by the provinces to create some opportunities, special opportunities for a special area of the province, but it cannot be discrimination based on the province of origin. The provincial government could decide that, for example, because of a social problem, say, quite easy in Newfound-

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land, in Labrador, for example, that they will give a priority for the resident of Labrador over the resident of Newfoundland and the rest of Canada. You will have to face the political responsibility of making that problem within your province, just like it might be that there might be an affirmative action in Quebec, say in the Gaspé area, if a discrimination, if I can use the term discrimination, applies to the resident of Quebec City and Montreal and Toronto on the same basis, then that is all right. What we do not want is the notion that based on the provincial residents and this is the concept that we are rejecting, because that way you are creating a concept of different citizenship across the land and we want the same rights to apply to all Canadians.

Mr. McGrath: In other words, if I understand you, it is all right to discriminate within a province, it is all right for a government by affirmative action to say that within a province only people who are resident within the set area may be eligible for employment on a project or an industry or a development that is taking place there, as long as you do not discriminate by province. You can discriminate by region, is that what you are saying? That is how I understand it.

Mr. Chrétien: Our problem, as I tried to explain to you, is discrimination based on the provincial barriers, the concept that you are a citizen of a province in relation to a citizen across the border to the next province.

Within the province we do recognize that there is need for affirmative action and it can be done, and the provincial government will have to take the responsibility vis-à-vis its own electors, having to discriminate in terms of one as against the other.

Mr. McGrath: Let me put it to you another way. You have taken Labrador as an example and it is a very good example. The Province of Newfoundland could discriminate against people living on the island of Newfoundland but working in Labrador, but they could not discriminate against people living in the Quebec side of the boundary?

Mr. Chrétien: No. If there is a discrimination, it is for everybody outside of Labrador. Supposing someone becomes a resident of Labrador and Quebec is just joining, the discrimination will apply to the resident of St. John's, Newfoundland, of Cornerbrook and to the citizen of Montreal. But if they go and reside there, that is another problem. He is a resident of Labrador.

Mr. McGrath: In the case of the Ontario government, let me just put it to you another way, the Ontario government may discriminate against people from southern Ontario working in northern Ontario, but they may not discriminate against people from Quebec working in northern Ontario, is that what you are saying?

Mr. Chrétien: They can discriminate against both, but not only against the citizen of Quebec because he is a citizen of Quebec, or a citizen of Manitoba because he is a citizen of Manitoba. But if he puts a restriction on his own citizens, just like the rest of Canada, that is fine, to take his local responsibility that he wants to have an affirmative action in one area of the province.

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But the citizen of the other parts of the province, just like a citizen of the rest of Canada will be faced—we do not intervene in Parliament either. There is a right in the Charter that belongs to the citizen but not to the Parliament of Canada.

[...]

Senator Roblin: Mr. Chairman, this is a relatively quick point of interpretation that I put to the Minister.

As I read Clause 6(2)(a) on mobility rights it says, “The right to move to and take up residence in any province” and similarly in Clause 6(2)(b), “To pursue the gaining of a livelihood in any province”. Does the word “province” comprise the Northwest Territories as well? I presume it must do or else it would say so.

Mr. Chrétien: Yes. Clause 27 makes it clear, “include a reference to the Yukon Territory and the Northwest Territories”.

Senator Roblin: Thank you, that clarifies the matter.

[...]

Mr. Tobin: [...] I just wanted to comment as well on Clause 6 and many of my concerns were answered from Mr. McGrath’s questioning of the Minister. I am glad to hear Mr. McGrath indicate that his colleagues may have some problem with his position with respect to mobility rights, because it certainly encourages me to believe that all Canadians and all members of Parliament representing all three parties have no problem with the concept of Canadians having the right to take up residence and to seek employment in any province.

I wanted to make clear, and it is my understanding, and the Minister will confirm for me, that while Clause 6 guarantees one Canadian citizenship in this country in so far as the ability to live and to work or at least pursue work in any province, it does not, for example, in the case of Newfoundland or any other province prohibit provinces or jurisdictions, provincial or municipal, from seeking to put in place positive or affirmative action programs or if you want, positive discrimination on the basis of trying to make jobs available to people in an area of very high unemployment, let us say.

Mr. Chrétien: Yes, I explained earlier, Mr. Tobin, the way they can do it. It shall not be based on the province of origin of the person affected, but as I described, it is easy in your province if you say that Labrador citizens will have a priority on one project, and if that priority is not applying to the rest of the province, the same restriction will apply to the rest of Canada.

But suppose that the citizens of Canada, wherever in Canada, or even from the mainland moved to Labrador, they would qualify according to if he is a resident of the area,

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because we want to guarantee the possibility of the Canadian to move across the land.

Mr. Tobin: Mr. Minister, I feel I can safely assure the Committee that there will be very few people in Newfoundland who would support a concept whereby anybody from any other part of Canada, simply because they were from another province of Canada, would not be able to work in Newfoundland on any project simply because they were not born a Newfoundlander. That kind of a discrimination would not be supported in the province, and as a matter of fact, a great deal of discussion has gone on about it.

I can tell you that many of us, including I, myself, have relatives in Newfoundland because we have always been a very mobile population, who work in other parts of this country and we certainly would not expect a double standard to be applied and would be disappointed if anything less than is included in these mobility rights was in front of us today.

[...]

Senator Tremblay: Thank you very much. Mr. Chairman.

I have two questions. The first one is this: Why do you use the following wording in subsection 6(2): “To move to and take up residence in any province”? Why did you say “any province” when you mean the entire country?

I think that you could just as well have said: “To move to and take up residence in any part of the country”. You introduce an ambiguity by dividing the country up into provinces for the purposes of establishing residency.

Mr. Chrétien: This reflects reality. I do not know whether there is a major problem. We recognize that there are provinces in Canada and that there is also a country, and that you can move from one province to another.

Why do we use the term? I can check, but it could be that the use of the term “country” would allow discrimination. For example, people from Manitoba could be prevented from going to Saskatchewan because they were not very well liked, or vice versa. In any case, the wording can be corrected if need be.

Senator Tremblay: It is a small point, a question of wording, but I find it curious that, in the French version, someone can move anywhere in the country, but that when it comes to taking up residence or anyone’s living, the provinces are mentioned.

Think about it, because in my opinion, at least, there is no need to mention the provinces, since the country includes the provinces by definition.

My other question is somewhat more serious. It deals with the interpretation you have given to the clause preventing discrimination on the basis of province of origin.

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You have said that a provincial law could designate a region within a province and that in the Lac St-Jean region, for example, residents from that area would have to be hired first.

How would you feel about adding “and any other resident of Canada based on proximity to Lac St-Jean”? The result of this would be that citizens of Quebec would have preference, although it would not be clearly stated, and this would conform to your interpretation.

Mr. Chretien: This would be a round-about way of getting what cannot be obtained directly. There could thus be discrimination based on distance. In your example, you have chosen the Lac St-Jean region, which both you and I know very well and which is not close to any other province. But supposing that the same concept were applied to Rouyn-Noranda. This means that people from Ontario would have preference over people from Montreal for the purposes of employment in Rouyn.

Senator Tremblay: The problem would arise in all border areas.

Mr. Chrétien: There could be a problem if there were an affirmative action program which benefitted residents of Ontario and Rouyn-Noranda, but eliminated people from Lac St-Jean because they were too far away. If you chose Lac St-Jean, however, the concept could be applied to the entire province before you would have to start thinking about people from outside. But if you are in Rouyn-Noranda or Hull, the problem is not the same.

Senator Tremblay: In other words, according to your interpretation, the clause that is supposed to protect against discrimination on the basis of the province of origin only protects regions close to a border.

Mr. Chrétien: We wanted to eliminate discrimination on the basis of province of origin. If something were limited to citizens of Ontario, of Quebec or of Newfoundland, we would object; but if there is an affirmative action program designed to solve social or economic problems, a program which discriminates within a province and benefits one region at the expense of another, residents of other provinces would not be the only ones to be discriminated against, because it would apply to people from the province as well.

It becomes quite clear if you take the case of Labrador, which is physically separated from Newfoundland and is much closer to Quebec than it is to its own province. If there was an affirmative action program for residents of Labrador, it would be fine for them but would discriminate against people from Corner Brook or St. John’s, and against people from Granby, Shawinigan or Montreal.

Peter Ittinuar, Jean Chrétien, & Sven Robinson, p. 87

Mr. Ittinuar: [...] I suppose I should ask some perfunctory questions to the Minister in light of the fact that my amendment has brought this discussion about.

This amendment, as it stands, or rather Clause 6 as it stands, without our amendment, without the ICNI amendment is discriminatory and the Minister. I think, knows that very well since he has travelled extensively to the North, knows the problems up there very well, knows the people fairly well, and he often likes to talk about social problems in the North.

These problems are usually caused by an influx of workers, an influx of immigrants in the North in places like Frobisher Bay, Inuvik, but in 90 per cent of settlements in the North there are no social problems as he likes to exaggerate, but I would like to ask the Minister, does he know what Clause 6 will do to the North in general, without the amendment we are asking for?

Mr. Chrétien: I think what we are seeking, Mr. Ittinuar, is that there should be no discrimination based on the province of origin, and you make the distinction between Inuvik and Frobisher Bay and the other settlements in the North. Of course I recognize that most of the Eskimo or Inuit villages along Rankin Inlet, Chesterfield Inlet, one of a kind, the population is stable and has been there for a long, long time and there is no great influx of people; but when a development occurs like it happened in Inuvik and Tuktoyaktuk with the oil development, there was a need . . .

Mr. Ittinuar: There are problems.

Mr. Chrétien: There are problems because there was oil and gas and there was . . .

Mr. Ittinuar: And that is exactly what this clause will do.

Mr. Chrétien: But this clause will say that—if you say that there should be nobody coming because they are not residents of Tuktoyaktuk they cannot go there or based on the ethnic origin of the people because he is not an Inuit or because he is not an Indian, I do not think that we can accept that concept.

Mr. Ittinuar: I said Clause 6 is discriminatory, Mr. Chairman, because northern people, the majority of whom speak Inuktituk, 90 per cent of people in the North, north of the tree line speak Inuktituk, but they cannot enjoy the benefits of this Clause 6. They cannot move anywhere else in Canada. How can they? They do not speak English; they do not speak French. They do not have the skills to work anywhere else in Canada. They can only trap, hunt, supplement their income with carving.

They cannot enjoy the rights which will be provided to other parts of Canada, to other peoples in Canada, and what we are trying to do with our amendment is prevent problems, as the Minister has so eloquently outlined, of the type that industry would bring if allowed to indiscriminately bring masses of people into the Northwest Territories.

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I can name places where there are problems. Yellowknife is a good example. The Yellowknife Indian are gone. There are no more Yellowknife Indians. The Dogrib, the Slavey the Cree, et cetera, have been so diluted as to be nonexistent today. They now call themselves the Dene Nation whereas in the old days they used to be distinct from each other.

Again, I ask the Minister, for instance, when he was in his tenure as Minister of Indian Affairs and Northern Development, he was partly responsible for the development at Nanasivik or Strathcona Sound in which they had hoped for— now we are talking about something else—employment for Northerners and the Minister had said at that time that Nanasivik would strive for 60 per cent employment by northern residents, whoever they were; but only less than 20 per cent of the

employment capabilities or the numbers of jobs in Nanasivik have been fulfilled by northern residents.

This clause does not ensure jobs for anybody in the North. Actually, it is going to destroy the North as it exists today. It is going to destroy the language, the culture; and Mr. Irwin, on Thursday last, said something, what is the economy of the North. Well, if I had my say I would say that what they want out of the North is what we have, but by law and by the fact that Ottawa has the power to say, "That is our oil; that is our gas; that is our minerals; that is our gold; that is our uranium", that is our economy.

By the way, our economy, our culture, the economy which we talk about is a subsistence economy. It is nothing that is going to infringe upon your precious resource extraction of the North. However, as residents of that area, we would like to be beneficiaries in some respects; but with the clause as it stands without our amendment that is not going to be the case.

I would like to ask the Minister, Mr. Chairman, whether he would not seriously consider our amendment more than he has because I know in his heart he is a good Minister and that he would like to, but he has orders from higher up.

Maybe he can comment on that?

Mr. Chrétien: What we say here is to ensure the mobility of the people across the land as much as possible. We said that there was a possibility of affirmative action. It is one of the goals we have.

You talk about the mine on Strathcona Sound next to the village Arctic Bay. We were trying, and have tried, to develop the potential of a workforce from Arctic Bay to go in this mine from across the land, just a few miles away.

Of course, you are telling me that you are disappointed that we have not managed to achieve 60 per cent of natives working there.

Mr. Ittinuar: Of northern residents.

Mr. Chrétien: Northern residents; but we have tried to do so. Of course, it is difficult. There would be the possibility of

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affirmative action to make sure that there would be training for the residents of those areas to work in those projects.

But we cannot accept an amendment which will say that nobody but the residents can work there, especially when it relates to ethnic origin; because sometimes to develop a mine or an oil well, it is absolutely necessary at some point that some expertise should come from outside.

We are afraid that that some aspects of your amendment would deny the possibility of a lot of development in those areas, and it would not serve the proper development of the natives. Of course, the age of hunting and trapping for most of the villages has passed.

The population is much bigger than it used to be, and perhaps the harvest is less available.

Mr. Ittinuar: Well, the age of hunting and trapping has not passed, as the Minister would have us believe.

Mr. Chrétien: I am not sure I said it has passed, but in any case, intended to say that it cannot provide the income for the totality of the population in many of those villages.

Mr. Ittinuar: Unfortunately, it provides a lot of income for us.

Mr. Chrétien: I agree with you.

Mr. Ittinuar: Unfortunately, for you.

Mr. Chrétien: Oh, no, no.

Mr. Ittinuar: We say in our amendment “as are reasonably justifiable to mitigate adverse environmental and social impact”. I think you know very well what would be reasonably justifiable, or demonstrably justifiable. Your legal advisers can tell you very well what that means, and in fact, this is what Mr. Justice Berger tried to bring out a few years ago in the Mackenzie Valley. There has been no such study in the Eastern Arctic.

I do not think, for instance, that Mr. Tobin, from Newfoundland is wholly truthful when he says that all Newfoundlanders would be against the concept of mitigating these environmental and social impacts. I think he would speak more on the employment side in terms of Hibernia, and so on.

Mr. Minister, when you advocate the development of the North, what you are advocating is short term development in places where the life term of such development is usually 10 to 20 years in which there would be large influx of workers who would then leave and then what would we have? Has the Minister considered that? Could the Minister comment on that please?

Mr. Chrétien: I have tried to explain to you that this Charter is not to solve all the social problems which exist in all parts of Canada.

I have said that there is room for affirmative action which has to be developed by the government, by the territorial government, by the national government, when it is within our jurisdiction.

This is our political and social responsibility.

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But you cannot cure a social problem by enshrining a concept based upon the ethnic origin of the people, more or less. This is the difficulty we are having with that.

We have said earlier that positive affirmative action would be possible and it is our collective responsibility to develop the programs so that residents in those places can prosper.

In Strathcona Sound Mining Development, there was a proposition at that time about moving most of the population to the mining site. The decision was made; no, we should maintain Arctic Bay as an Eskimo-oriented community and not move the settlement to the other place so that the cultural aspects of that community would not be destroyed by the mining operation.

It was for the natives who wanted to work to moved into the mining, and if someday the mine closed, which does happen in mining, then they would be able to go back to their village and their village would have maintained the same characteristics as they had before.

Mr. Ittinuar: Mr. Minister, this is not a quid pro quo situation. The government had developed programs for the North in terms of development and resource extraction and so forth. The people of the north have never been asked what they thought about such development. You never asked me. He never calls me; he never calls the territorial councillors from the Northwest Territories!

A few years ago, the Inuit were herded into a settlement so they could be administered more easily by Ottawa. They were not asked whether they wanted to stay where they were before, or whether they wanted to move into the settlement. This is still happening today.

Now, Mr. Irwin on Thursday night, made many comments. He asked what does the phrase “reasonably justifiable” mean? What is the economy of the aboriginal people? What is the culture of the aboriginal people? What is the society of the aboriginal people? That is like asking me do I exist or not.

If Mr. Irwin is so antiracist, and he wants to make me a white man, then this is what this is going to do. I do not have any disrespect for white men, but I am asking them to respect me, and that is what I am asking the Minister to do.

Mr. Chrétien: But this would not achieve that.

Mr. Ittinuar: This is going to achieve that, Mr. Minister, without our amendment.

[...]

Mr. Robinson: [...] I would like to say a couple of words with respect to the substance of the amendment which we are proposing; and that is that Mr. Ittinuar, my colleague, is making a very eloquent

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plea that this Committee listen to what he is saying, that the mobility rights as they stand, without our proposed amendment, could have a significant, dramatic and drastic impact upon the preservation of aboriginal culture and community in the North.

That is what Mr. Ittinuar is saying. What we are proposing, as an alternative, is that mobility rights should be subject to a reasonable justifiability test. That is all we ask, that the government should be prepared to come before the courts and say: "This particular law, even though it appears to impinge upon the cultural survival of the Inuit people of the North, we can justify if for this particular reason".

But, without this, Mr. Chairman, what we are being told is that the Inuit people feel threatened, they feel threatened by the development which may take place as a result of the entrenchment of these mobility rights.

Surely, if there is something we should be listening to, if there is a plea we should be listening to in this Committee, it is that these rights, which are supposed to protect minorities and should not trample upon the rights of these minorities, and we are being told that there is a threat, a very real perception that this is possible.

Now, can we not listen? Can we not listen to this plea of the Inuit people that there be some overriding jurisdiction, that the courts of this land should have an opportunity to examine carefully whether any legislation which they feel threatens their existence, their cultural survival, their economic survival, their aboriginal rights, be subjected to some scrutiny?

That is all, Mr. Chairman, this amendment asks for. It asks that the beautiful environment of the North, that the Beaufort Sea, which may be threatened by the kind of rights which are being sought to be entrenched here, not be threatened without at least some opportunity to challenge it in the courts.

So, I appeal to members opposite in particular to listen to what is being said. I appeal to the Minister to listen to what is being said, because I want to advise members of this Committee and the Minister, that we in the New Democratic Party, take the question of treaty and aboriginal rights, very, very seriously.

When it comes to assessing the final package which comes out of this Committee, we will be looking with great interest at what this government has listened to the pleas of the aboriginal people of this country.

Mr. Chairman, this is a central point to this party, and I appeal to government members in particular and to the Minister to heed the plea of the Inuit people of this country.

[...]

Senator Roblin: [...] Let me start by saying that this amendment zeroes in on one of the most difficult and intractable problems presented to us in the course of our hearings.

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We have had ample evidence of that.

When one considers the rather sweeping character of this amendment, these problems come to light. It speaks of any laws or practices affecting any of the aboriginal peoples of Canada.

We are not just talking about people of the North, but about a great many more.

When one considers that many of these aboriginal people are in a state of transition from where they originally lived in my province from reserves to migration to cities and other places, one can understand that, without a doubt, if we adopted this clause, it is going to be fraught with great difficulty if it is to be administered justly.

I try to weigh that obvious problem against the goals that this amendment seeks to attain.

When I think of the aboriginal people in my own province, I must say that, in spite of the fact that they are dispersed through the whole of our society now—some are still in the North where the original large body of these people live—when I consider the situation in my own province of Manitoba—nothing to do with the Northwest Territories—I can see why this resolution is proposed to our assembly here this afternoon.

In Manitoba, in the north, there is not enough trapping any more; there is not enough fishing any more to support the population which has been growing in geometrical ratio in my part of the world.

We know there is a forestry industry there, and we have sought in Manitoba to make sure that there is a place for aboriginal people in the development of that forest industry. It is in their part of the province.

While we do not have strict rules in the constitutional sense, we have been able to make a place for aboriginal people and we have been able to make that place while at the same time, accommodating some non-natives as well, as is necessary in the development of that industry.

I would be loathe to be a party to a law which would make it impossible to do that kind of thing.

I am concerned about the scope of this resolution—any of the aboriginal people, any environmental or social impact activity; and I wish we could define that a little more carefully. I am comforted by the thought that it is for the purpose of mitigating, in other words, it is not a bar to development or to activity in these areas, but the purpose is to mitigate the adverse effects against these people.

It goes on to say that such mitigation must be reasonably justifiable, so, when I think of this problem and consider my own experience in the matter, I feel some protection to these aboriginal peoples is indeed justified.

I regret that the government has not—in view of its apparent opposition to the wide sweeping character of this amendment, which I acknowledge. I regret they have not found it possible to give us some more carefully defined resolution which would eliminate some of the obvious problems they see.

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But if it comes to a choice and I have to decide which way I am going to go, I am going to go with the resolution.

I thought that I would like to take the opportunity of explaining to this Committee just why I take that course.

Fred Jordan (Senior Counsel, Public Law, Department of Justice), p. 94

Mr. Jordan: Mr. Chairman, if I can answer Mr. Crombie's

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question, we read Clause 6 as being subject to Clause 15(2). In other words, Clause 15(2) talks about any law which creates an inequality on the various grounds or the non-specified grounds but certainly the specified ones are raised in this particular situation. We feel in talking of programs, activities or laws that allow for affirmative action programs, we are talking precisely about the kind of thing that is addressed in the mobility rights where you want to create special benefits for those who have been disadvantaged on the basis of one of the grounds specified in Clause 15(1), so therefore I would say that Clause 6 will be read subject to Clause 15(2).

Coline Campbell & Jean Chrétien, p. 97

Miss Campbell: Thank you, Mr. Chairman.

I have a couple of questions to the Minister. They concern the amendment as it relates to Clause 6. I am wondering what do the mobility rights do for union shops, or can a company in Canada bring in cheaper labour over another province or something like that? If a company has a work force which they could bring into another area at cheaper rates, can they undercut the locality?

Mr. Chrétien: If there is a union, there are laws governing the membership of the union, in, say, that factory. A union cannot put other members there to work in their place.

Miss Campbell: My question is more related to a situation, let us say, an electrical workers union, where a term of the contract is that they must hire—and in a lot of government contracts it is stipulated that you must hire from the union first before they go outside the union.

How this affect the position?

Mr. Chrétien: The laws that exist in the province which are to determine professional qualifications of members of any profession will remain under provincial jurisdiction, What is given here is the possibility of discrimination by laws of the

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legislature or Parliament, but individual contract is another matter and you do not have to conform to provincial law.

Miss Campbell: I suppose, similarly, if you have a company which could get cheaper labour in one part of Canada and bring it into another part of Canada, provincial labour laws would apply.

Mr. Chrétien: Of course, there are provincial laws and you cannot throw people out and replace them with cheaper persons if there is a union.

Miss Campbell: But it could be without a union.

Mr. Chrétien: That is irrelevant. It does not provide the possibility of somebody using it for such a purpose. You have to conform with the laws of the province. Of course, if provincial laws permit such a thing, then this constitution is immaterial.

Miss Campbell: Could a provincial government which gives a contract to a company have a clause in that contract to the effect that they hire local residents first? Would that be offending the mobility rights?

Mr. Chrétien: As I have explained earlier, if it is based upon affirmative action for one area, it could be applied: but it does not relate to the province where the person is coming from, because that would be discrimination against this mobility clause.

Miss Campbell: But local residents would prefer to a province or area.

Mr. Chrétien: Depending upon how it is phrased, really. If it is discrimination which applied to other citizens of the province, that would probably be all right; but if it is related to the residents of Nova Scotia and excluding the residents of New Brunswick, that would be against the Charter of Rights.

Peter Ittinuar, p. 100

Mr. Ittinuar: Thank you, Mr. Chairman. I have just a few comments before we close. I would like to place on record the explanatory note by the Inuit Committee on National Issues on the proposed amendment:

This Clause 6(3)(c) ensures that the principle of priority of contracts in employment for northern residents will not be inconsistent with mobility rights applying generally in southern Canada.

We have debated that earlier. It will enable governments to regulate northern immigration to balance local economic and social conditions which might otherwise be disrupted by sudden large influxes of migrant workers.

This position is also held by the governments of the Yukon and the Northwest Territories.

What we are saying, Mr. Chairman, is that while we do not restrict individuals from coming to the North out of their own interests, in fact we welcome them, this clause, as it stands without that

amendment would allow indiscriminate development in the north whereby large influxes of people would disrupt society as it exists now and the indiscriminate development of resource would also disrupt a very, very sensitive—and I cannot emphasize this enough—a very delicate environment.

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As well, Clause 6 as it stands would not be enjoyed by northern people for the reasons I have already outlined. They do not enjoy the language of the English. They do not enjoy the use of the French. They have their own particular language and would not be able to enjoy the benefits of this clause, as would southern Canadians.

So the north of 60° is a very special case. It is discriminatingly ignored in the clause.

Agreed to, p. 101

The Joint Chairman (Mr. Joyal): I would like to go back to Clause 6.

Clause 6 agreed to.

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February 6, 1981, Debate in the House of Commons, p. 6996 (click [HERE](#))

Concerning: Mobility Rights—Mobility rights, goods, and services

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February 17, 1981, Debate in the House of Commons, p. 7403 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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February 18, 1981, Debate in the House of Commons, pp. 7445 & 7449 (click [HERE](#))

Concerning: Mobility Rights—Native people, effect (7449); Quebec position (7445)

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February 26, 1981, Debate in the House of Commons, p. 7746 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Gilbert Parent, p. 7746

Mr. Parent: [...] To my mind, one of the most important aspects of this resolution is that it guarantees that all Canadians will be free to settle where they want in this country. How can we

have a nation if its citizens are not free to move around as they wish? Only if we can look for work, put our children in schools where they will not feel out of place and become home owners and build in any area of the country will we consider ourselves citizens of a great nation. Otherwise, we shall only be residents of hostile and restricted feudal kingdoms.

Physical obstacles to travel have virtually disappeared. We can go nearly everywhere in Canada in a single day, and in most cases, much more quickly. The only real obstacles are psychological and legal. The psychological obstacles reflect fear, apprehension and uncertainty, fuelled by perceived regional divisions. The Constitution we have been offered can only eliminate such perceptions by guaranteeing unequivocally the freedom of movement and communications. The legal obstacles are those which give special employment and ownership rights to local residents. These are certainly the most insidious obstacles, as they discriminate between citizens from one area and those from elsewhere. This can be the cause of serious divisions and great bitterness. Without mobility rights, there can be no question of the national commitment to which I referred earlier. For this principle to prevail, all Canadians must feel at home everywhere in Canada. This will promote an enlightened nationalism.

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March 3, 1981, Debate in the House of Commons, pp. 7843-4 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

David Dingwall, p. 7843

Mr. Dingwall: [...] I am absolutely delighted to see that mobility rights are to be enshrined... If the maritime provinces, from where I come, had been restricted in mobility there would have been social revolution in this country and I think it is time that people remembered that... We are totally committed to this principle and I think that 99 per cent of the people of Canada are.

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March 5, 1981, Debate in the House of Commons, pp. 7932, 7952 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

David Weatherhead, p. 7932

Mr. Weatherhead: [...] Mobility, like free speech, is a fundamental right. Anything which would hamper this right flies in the face of the ideals which are Canada. Enshrining this right in the Constitution of Canada tells Canadians that all of Canada is theirs. The mere accident of birth in one area or another has never prevented an individual from sharing in the boundless promise that is Canada. It must never do so, for without the right of mobility for all of its citizens, Canada is a pointless, balkanized collection of communities out of touch with itself.

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March 11, 1981, Debate in the House of Commons, pp. 8133 & 8143 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (8133); Newfoundland (8143)

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March 11, 1981, Debate in the Senate, pp. 2002-3 (click [HERE](#))

Concerning: Mobility Rights

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March 12, 1981, Debate in the House of Commons, p. 8201 (click [HERE](#))

Concerning: Mobility Rights—Mobility rights, goods, and services

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March 13, 1981, Debate in the House of Commons, p. 8229 & 8244 (click [HERE](#))

Concerning: Mobility Rights—Provincial labour laws, affecting (8229); Quebec position (8244)

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March 16, 1981, Debate in the House of Commons, pp. 8278, 8287-8 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Douglas Frith, p. 8287

Mr. Firth: [...] The constitutional reform proposal before the House essentially addresses the question of sharing our wealth to make

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Canada work as it can, for it is vital that all Canadians enjoy a national standard of material well-being. To that end, Mr. Speaker, Part I, Section 6 of the Constitution Act provides every citizen of Canada with three basic economic rights. These are, first, the right to enter, remain in, and leave Canada; second, that every citizen and every permanent resident of Canada have the right to move from province to province and to take up residence; and third, the right of every Canadian to seek gainful employment without hindrance. These rights cannot be conditional or discriminatory in relation to a person's previous province of residence. Anything less means that a Canadian citizen would have his basic citizenship right embargoed by the unilateral action of a province.

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March 19, 1981, Debate in the House of Commons, pp. 8415, 8426 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Chuck Cook, p. 8415

Mr. Cook: [...] Mobility rights are said to be guaranteed in the new Constitution, and upon a quick and careless reading this appears to be right. Section 6 (2) of the Constitution Act says that every citizen and permanent resident of Canada has the right to move to, reside and work in any province. Unfortunately, the section makes this right subject to its being overridden by any laws or practices of general application in force in a province so long as they do not discriminate primarily on the basis of province of previous residence. For example, if B. C. were to pass a law establishing a quota and permit system for people wanting to move into the province, the law would be perfectly valid under the new Constitution so long as it did not set quotas according to provincial origin. Thus, mobility rights are not guaranteed at all

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April 2, 1981, Debate in the House of Commons, pp. 8907, 8908-9 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (8907); Mobility rights, goods, and services (8908-9)

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April 13, 1981, Debate in the House of Commons, p. 9204 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence; Mobility rights, goods, and services

Jim Hawkes, p. 9204

Mr. Hawkes: [...] This government tells us about mobility rights. There are two important groups that we should keep in mind when we talk about mobility rights. The first group involves secretaries who live in eight of the ten provinces, in Yukon and the Northwest Territories. They still cannot work for the Department of External Affairs. Then there are the pilots who want to fly airplanes for the Department of Transport. They cannot obtain a job unless they live in the province of Quebec. This government in its day-to-day behaviour is the single largest employer which puts mobility problems in the way of Canadians who want to work in different parts of the country. It also wants a Constitution which enshrines the right of the government to deny the provision of social services to any Canadian who moves across provincial boundaries. This government threatens disadvantaged Canadians by telling them that if they move from province to province they run the risk of not being able to receive health care, family allowances or pensions, or of not receiving a decent education. It wants to deny the provision of social services to the people who need it most.

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April 21, 1981, Debate in the House of Commons, p. 9360 (click [HERE](#))

Concerning: Mobility Rights—Mobility rights, goods, and services

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May 21, 1981, Debate in the House of Commons, p. 9796 (click [HERE](#))

Concerning: Mobility Rights—Mobility rights, goods, and services

Roy MacLaren, p. 9796

Mr. MacLaren: I have spoken of one or two of the factors in our economy making for inefficiency and hence, by extension, contributing to inflation. In conclusion I want for a moment to touch upon the fact that here in Canada provincial governments have erected economic barriers which frustrate the realization of the full benefits of the Canadian common market. We must be economically integrated. We must not be the victims of balkanization if we are to prosper in a highly competitive world. Most Canadians, for example, would assume they have the right to travel, live and work anywhere in our country, but because of actions that provincial governments have mistakenly taken in the past, we have had to guarantee that right in the constitutional proposals before this House.

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November 4, 1981, Debate in the House of Commons, p. 12490 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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November 2-5, 1981: Federal-Provincial Conference of First Ministers on the Constitution, A New Brunswick Proposal to Obtain Wider Support for the Constitutional Resolution (click [HERE](#), then scroll to p. 3)

To do this, New Brunswick proposes that Governments agree to a simplified Charter containing the essential and universally-accepted fundamental freedoms and democratic rights, together with minority language education rights, provisions affecting language rights for New Brunswick and the Federal Government and mobility rights.

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November 5, 1981: Federal-Provincial Conference of First Ministers on the Constitution, Verbatim Transcript, pp. 93 (Canada), 99 (Ontario), & Appendix A (Agreement) (click [HERE](#))

p. 93 (Canada)

Deuxièmement, la raison qu'on nous a donnée pour ne pas signer cet accord c'est sur la clause de mobilité permettant à des canadiens de diverses provinces d'aller habiter et de se chercher du travail dans d'autres provinces. Nous pensons que ce concept est essentiel à nos notions d'un Canada où les canadiens peuvent aller travailler ou ils veulent, mais nous avons reconnu dans le texte, surtout sur la pression de monsieur Peckford, une formule qui permet aux provinces qui souffrent de chômage au-dessus de la moyenne, de se protéger par des législations spéciales.

p. 99 (Ontario)

I would say to my colleague, the Premier of Quebec, that I regret that we were not able to find the words perhaps on mobility, the concern that he feels with respect to the fiscal equivalents in the amending formula, and I guess I can only say to the Premier of that province that I hope over a period of time we can find ways and means that your great province, sir, can be included in the spirit and the intent of what we are doing today.

Appendix, p. 1 (The Agreement)

In an effort to reach an acceptable consensus on the constitutional issue which meets the concerns of the federal government and a substantial number of provincial governments, the undersigned governments have agreed to the following:

[...]

(3) Charter of Rights and Freedoms:

The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes:

(a) With respect to Mobility Rights the inclusion of the right of a province to undertake affirmative action programs for socially and economically disadvantaged individuals as long as a province's employment rate was below the National average.

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November 5, 1981, Debate in the House of Commons, pp. 12537-8 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence; Federal-provincial Nov. 5/81 Agreement

Pierre Trudeau, p. 12537

Mr. Trudeau: The two exceptions are mobility rights, the right of Canadians, irrespective of where they live, to seek work and to settle anywhere in Canada. We had to change the wording of these mobility rights to dispel the legitimate fears of Newfoundland, and we offered the same possibility to Quebec. Before the resolution is passed, if Quebec can let us know how an

[Page 12538]

amendment acceptable to the others and acceptable to us could be introduced, I am sure we would be able to find a compromise solution, as we did for Newfoundland. Finally, the only other point on which there was disagreement was the obligation for each province to undertake freely to protect its official language minorities.

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November 20, 1981, Debate in the House of Commons, p. 13043 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Jean Chrétien, p. 13043

Mr. Chretien: [...] Second, it guarantees the freedom of Canadians to establish residence and seek a job anywhere in Canada without regard to provincial borders. It establishes one Canadian citizenship rather than ten provincial citizenships. But it recognizes the need for special measures to be taken to protect local residents in provinces whose rate of employment is below the national average.

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November 23, 1981, Debate in the House of Commons, p. 13134 (click [HERE](#))

Concerning: Mobility Rights—Quebec position

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November 24, 1981, Debate in the House of Commons, pp. 13210, 13213, 13224 (click [HERE](#))

Concerning: Mobility Rights—Quebec position

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November 25, 1981, Debate in the House of Commons, p. 13283 (click [HERE](#))

Concerning: Mobility Rights—Quebec position

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November 26, 1981, Debate in the House of Commons, p. 13360 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

Jean-Robert Gauthier, p. 13360

Mr. Gauthier: 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.

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November 30, 1981, Debate in the House of Commons, pp. 13505, 13525 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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December 1, 1981, Debate in the House of Commons, pp. 13600-5 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence (13600-5); Mobility rights, goods, and services (13600-1)

Roy MacLaren, p. 13600

Mr. MacLaren: [...] John A. Macdonald was quite certain about the right of Canadians to live and work anywhere. “We are one country”, he said, “and we go from one province to another as we do from one town to another.”

Gordon Taylor, p. 13603

Mr. Taylor: [...] What good are mobility rights to people in western Canada who speak only English?

Louis Duclos, p. 13605

Mr. Duclos: [...] Mr. Speaker, at the end of the constitutional conference at the beginning of November this year, the Premier of Quebec gave three reasons why he felt that Quebec could not sign the accord entered into by the federal government and the nine other provinces of Canada. First, he mentioned his disagreement with Section 6 of the draft resolution which dealt with mobility rights. Second, he indicated his disagreement with Section 23 which, he felt, would seriously restrict Quebec’s constitutional powers with respect to education. Third, he did not agree with the absence of fiscal compensation from the amending formula.

Mr. Speaker, I do not think the issue of mobility rights warrants a lengthy discourse. I fail to understand why anyone would object to the entrenchment of such a clause in the Charter of Rights. Why, in the Common Market, workers can move freely from one sovereign state to another sovereign state, while here in Canada, there are any numbers of barriers that prevent Canadian citizens from moving from one Canadian province to another, all within the same country. I feel that this objection is not well founded and is basically an expression of the separatist leanings of the Quebec government.

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December 7, 1981, Debate in the Senate, pp. 3310 (click [HERE](#))

Concerning: Mobility Rights

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March 18, 1982, Debate in the House of Commons, p. 15616 (click [HERE](#))

Concerning: Mobility Rights—Employment, Residence

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