APPENDIX "A"

Orders of Reference of the Senate

Projet-1

CONFIDENTIEL
NE PAS PUBLIER AVANT
LA PRESENTATION
AU COMITE

Le Comité mixte spécial du Sénat et de la Chambre des communes sur la Constitution du Canada a l'honneur de présenter son

PREMIER RAPPORT

Le Comité mixte spécial sur la Constitution du Canada a été créé en conformité d'un Ordre de renvoi adopté le 23 octobre 1980 par la Chambre des communes et le 3 novembre 1980 par le Sénat. L'Ordre de renvoi du Comité est libellé en ces termes:

«Qu'un Comité mixte spécial du Sénat et de la Chambre des Communes soit institué pour examiner le document intitulé «Projet de résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada», publié par le gouvernement le 2 octobre 1980, faire rapport sur la question et faire des recommandations dans son rapport quant à l'opportunité, pour les deux Chambres du Parlement, de présenter à Sa Majesté cette adresse, modifiée, le cas échéant, par le Comité».

Le rapport comporte deux grands volets. Le premier, intitulé «Observations d'ordre général», décrit les activités du Comité et résume les dépositions orales et écrites qu'ont faites des groupes et des particuliers. La seconde partie du rapport contient la décision du Comité aux fins de son Ordre de renvoi quant à l'opportunité de présenter une adresse à Sa Majesté la Reine.

I--Observations d'ordre général

1. Participation des citoyens

Après avoir sollicité la présentation de mémoires et de témoignages, le Comité a tenu des audiences publiques du 6 novembre 1980 au 9 janvier 1981; il a siégé 176 1/2 heures

Joint Committee of Senate and House of Commons. 1980. - 1st report.

Projet-1

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en 35 jours. Entre le 9 janvier et le 9 février, le Comité a étudié la résolution en détail, article par article, pendant 90 1/2 heures.

En plus de cinq autorités spécialistes des questions constitutionnelles, les porte-parole de quatre gouvernements provinciaux, des deux gouvernements territoriaux, de quatre partis politiques provinciaux et de 95 groupes sont venus témoigner. Les groupes représentaient de nombreux éléments de la société canadienne, notamment des organisations pour les libertés civiles et les droits de la personne, des associations féminines, l'entreprise, le Barreau, des groupes linguistiques minoritaires, des associations ethnoculturelles, des associations d'Indiens, d'Inuit et de Métis, des chefs de police, des ecclésiastiques, et des associations pour la protection des droits des enfants, des personnes handicapées et des homosexuels. En outre, le 2 février, le Comité avait reçu les lettres, télégrammes et mémoires de quelque 914 personnes et 294 groupes. La liste des témoins figure à l'Annexe A et celle des personnes et des groupes qui, le 2 février 1981, avaient déposé des mémoires, à l'Annexe B. Le nombre impressionnant de mémoires reçus traduit l'intérêt considérable et la participation directe des Canadiens à l'endroit de la réforme constitutionnelle.

2. Résumé des témoignages

La résolution renvoyée au Comité propose le rapatriement de la Constitution du Canada, avec une formule d'amendement, la reconnaissance du principe de la péréquation, l'enchâssement d'une Charte des droits et libertés et la présentation d'une adresse commune du Sénat et de la Chambre des communes à Sa Majesté la Reine invitant

le Parlement du Royaume-Uni à adopter la Loi sur le Canada, qui contient à l'Annexe B la Loi constitutionnelle de 1981.

La majorité des dépositions faites devant le Comité concernaient la Charte des droits et libertés. Certains témoins se sont opposés au principe de l'enchâssement des droits et à leur inclusion dans la Constitution canadienne. La majorité cependant favorisait l'enchâssement de la Charte et a proposé des amendements au projet de charte de façon à mieux protéger les droits et libertés individuels.

Le président de la Commission canadienne des droits de la personne est favorable au principe de l'enchâssement d'une Charte des droits, quoiqu'il en juge la version originale imparfaite. Il demande instamment que soient précisés le libellé initial de la clause restrictive à l'article 1 et les garanties du paragraphe 15(1) consacrant l'égalité des droits.

Des représentants du Comité national d'action sur le statut de la femme et du Conseil consultatif canadien de la situation de la femme favorisent l'enchâssement d'une Charte des droits, mais ont demandé pour les femmes l'égalité dans la loi ainsi que devant la loi.

Le Congrès juif canadien est en faveur de l'enchâssement d'une Charte des droits qu'il considère comme le symbole et l'affirmation de nos droits et leur meilleure garantie de protection, mais il estime que certains articles de la résolution devraient être énoncés plus clairement.

L'Association canadienne des libertés civiles a insisté sur la nécessité de modifier les restrictions prévues à l'article 1, les dispositions relatives aux garanties juridiques et le libellé initial de l'article 26

concernant l'admissibilité de la preuve.

Les francophones hors Québec, les anglophones et les Italiens du Québec, et des associations d'Allemands, de Japonais, de Noirs, de Polonais, d'Afro-asiatiques et d'Ukrainiens, favorisent l'enchâssement de la Charte des droits. Tous ceux-ci ont rappelé la nécessité de respecter le caractère bilingue de la société canadienne.

La présidente de la Fédération des francophones hors Québec a déclaré que les droits linguistiques reconnus dans la Charte ne sont pas suffisamment étendus et elle a déploré le fait que l'article 133 de l'Acte de l'Amérique du Nord britannique ne soit pas étendu en Ontario et au Nouveau-Brunswick. Par ailleurs, elle a appuyé le principe des droits garantis à l'instruction dans la langue de la minorité dans tout le pays.

Les groupes d'intérêts multiculturels s'inquiètent en particulier du fait que le projet de Charte ne tient pas suffisamment compte de la diversité culturelle du Canada.

Des groupes représentant les personnes handicapées, les enfants et les Églises ont plaidé en faveur de l'enchâssement de la Charte, mais ont demandé que celle-ci soit élargie de façon à assurer la protection et le respect de leurs droits.

Les groupes d'Indiens, de Métis et d'Inuit ont exigé formellement que les droits des autochtones et les droits accordés par traités soient enchâssés dans la Constitution.

De l'avis général, le rapatriement de la Constitution est souhaitable comme l'est l'inclusion de mécanismes d'amendement de la Constitution. Certains se sont dits préoccupés de la disposition référendaire. Quelques témoins

se sont opposés au principe du référendum; d'autres considèrent le référendum comme un dernier recours, mais s'opposent à l'impartition, au Parlement, d'un droit d'initiative exclusif en ce domaine.

Les premiers ministres de la Saskatchewan, de la Nouvelle-Ecosse et de l'Ile-du-Prince-Edouard se sont opposés au rapatriement unilatéral principalement parce qu'il conviendrait d'obtenir le consentement des provinces avant de demander à Westminster de modifier la Constitution en profondeur.

Le premier ministre du Nouveau-Brunswick a cependant apporté son soutien inconditionnel au processus adopté par le gouvernement fédéral puisque, selon lui, les provinces ont eu suffisamment d'occasions de s'entendre au sujet de la réforme constitutionnelle et que le moment d'agir était venu.

Les «témoins experts» qui ont comparu devant le Comité ont contesté la légitimité de la procédure proposée.

M. Gil Rémillard, professeur de droit à l'université Laval, le professeur Peter Russell, professeur de science politique à l'université de Toronto et le Très Révérend Edward W. Scott, primat de l'Eglise anglicane du Canada s'opposent au caractère unilatéral de l'initiative fédérale.

Par ailleurs, le professeur Maxwell Cohen, ex-doyen de la faculté de droit de l'Université McGill et actuellement professeur de droit à l'Université d'Ottawa, ainsi que M. Cérard LaForest, professeur de droit à l'université d'Ottawa, reconnaissent au gouvernement fédéral le pouvoir d'adopter une telle résolution.

Le 12 janvier 1981, après une étude attentive des mémoires des témoins, le ministre de la Justice, l'honorable Jean Chrétien, soumettait au Comité, au nom du gouvernement canadien, un certain nombre de propositions d'amendement de la résolution. Ces propositions définissent plus clairement le principe de la péréquation et précisent que la procédure référendaire ne sera utilisée qu'en dernier ressort.

Plusieurs articles du projet de Charte ont été reformulés conformément aux recommandations de nombreux témoins, de façon à assurer la protection des droits et libertés de chaque citoyen.

L'article 31 de la Partie II de la Loi constitutionnelle de 1981 a été modifié de façon à reconnaître et à affirmer les droits des autochtones et les droits issus de traités. Le Comité a adopté l'amendement à l'unanimité.

Un important amendement visant à renforcer le pouvoir des provinces de légiférer en matière de ressources naturelles non renouvelables, de ressources forestières et d'énergie électrique a été apporté au Projet de résolution. L'amendement précise les pouvoirs des provinces en matière de prospection, de mise en valeur, de conservation et de gestion de ces ressources. Les provinces pourront également exercer une juridiction concurrente, sous réserve de la prééminence du gouvernement fédéral, relativement au commerce interprovincial de ces ressources et pourront s'assurer des revenus par «tout mode ou système d'imposition» de ces ressources.

II. Décision du Comité aux fins de son Ordre de renvoi

Votre Comité a étudié le document intitulé «Projet de résolution portant adresse commune à Sa Majesté la Reine

concernant la Constitution du Canada», publié par le gouvernement le 2 octobre 1980 et, tout particulièrement, a) quels amendements devaient être apportés à l'Adresse contenue dans le document, et b) l'opportunité, pour les deux Chambres du Parlement, de présenter à Sa Majesté cette adresse telle que modifiée par le Comité.

Votre Comité recommande que le gouvernement propose pour adoption, au Sénat et à la Chambre des communes, une résolution portant adresse à Sa Majesté la Reine concernant la Constitution du Canada et que ce texte soit la version modifiée et approuvée par le Comité, du «Projet de résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada» publié par le gouvernement le 2 octobre 1980. Il est en outre proposé qu'après son adoption par le Sénat et la Chambre des communes, l'adresse soit présentée à Sa Majesté la Reine.

Le fProjet de résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canadat, tel que modifié par le Comité:

Un exemplaire des Procès-verbaux et témoignages s'y rapportant (fascicules nos 1 à 57) est déposé.

Respectueusement soumis,

Les coprésidents

Harry Hays
Serge Joyal

CONFIDENTIAL
UNTIL PRESENTED
TO COMMITTEE

Draft - 1

The Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada has the honour to present its

FIRST REPORT

The Special Joint Committee on the Constitution of Canada was established pursuant to an Order of Reference adopted on October 23, 1980 by the House of Commons and on November 3, 1980 by the Senate. Its Order of Reference reads as follows:

> ''That a Special Joint Committee of the Senate and of the House of Commons be appointed to consider and report upon the document entitled ''Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada'' published by the Government on October 2, 1980, and to recommend in their report whether or not such an Address, with such amendments as the Committee considers necessary, should be presented by both Houses of Parliament to Her Majesty the Queen''.

The Committee's report is divided into two main parts. The first part entitled ''General Observations'' describes the Committee's activities and summarizes the evidence presented orally or in writing by groups and individuals. The second part of the report presents the Committee's response to its Order of Reference as to whether or not an Address should be presented to Her Majesty the Queen.

I. General Observations

1. Citizen Participation

After calling for written briefs and submissions, the Committee held public hearings between November 6, 1980 and January 9, 1981, sitting for 35 days for a period of 176 1/2 hours. Between January 9 and February 9 the Committee studied the Resolution in depth clause by clause for 90 1/2 hours.

Four provincial governments, the 2 territorial governments, 4 provincial political parties, 5 constitutional authorities and 95 groups appeared as witnesses. The groups represented a broad cross-section of Canadian society, including civil liberty and human rights organizations, women's associations, the business community, the Bar, language minorities, ethno-cultural associations, Indian, Inuit and Métis associations, police chiefs, churches, associations concerned with the rights of children, the handicapped and homosexuals. Furthermore, as of February 2, 914 individuals and 294 groups sent letters, telegrams and briefs to the Committee. A list of those who gave evidence as witnesses is attached as appendix ''A''. A list of those who have made submissions to the Committee as of February 2, 1981, is attached as appendix ''B''. The remarkably large number of submissions is proof of the great interest and the direct involvement of Canadians in the process of constitutional reform.

2. Summary of the Evidence

The resolution referred to the Committee proposed to patriate the Canadian Constitution, with an amending

formula, to enshrine the principle of equalization, to entrench a Charter of rights and freedoms and by means of a joint address of the Senate and the House of Commons to Her Majesty the Queen to invite the Parliament of the United Kingdom to enact the Canada Act, which contains in Schedule B, the Constitution Act 1981.

Most of the evidence presented to the Committee concerned a Charter of rights and freedoms. Some witnesses opposed in principle the entrenchment of rights and their inclusion in the Canadian Constitution. The majority, however, wanted an entrenched Charter and suggested amendments to the proposed Charter that would be more effective in protecting the rights and freedoms of every person.

The Canadian Human Rights Commissioner supported the principle of an entrenched Charter of rights, but he found the original version flawed. He insisted that the wording of the original limitations section in clause 1, and the equal rights provisions in clause 15(1) be strengthened.

Representatives of the National Action Committee on the Status of Women and the Canadian Advisory Council on the Status of Women supported an entrenched Charter of Rights and recommended that women must have equality before and under the law.

The Canadian Jewish Congress wanted an entrenched charter of rights ''both as a symbolic and substantive affirmation of our rights as well as an appropriate remedy to secure them'', but felt that some sections needed to be drafted more clearly.

The Canadian Civil Liberties Association was emphatic about the need to change the limitations built into clause 1, the legal rights clauses and the original clause 26 which concerned the admissibility of evidence.

Communities of Quebec, francophone groups outside Quebec, anglophone and Italian as well as the German, Japanese, Black, Polish, Afro-Asian and Ukrainian associations, wanted an entrenched charter. All these groups recognized the need to respect the bilingual nature of Canadian society.

The President of "La Fédération des Francophones hors Québec" said the language rights included in the Charter do not go far enough, deploring the fact that Section 133 of the British North America Act had not been extended to Ontario or New Brunswick. On the other hand, she supported the principle of guaranteeing minority language education rights across the country.

The multicultural groups were particularly concerned that the draft of the Charter did not adequately address itself to the reality of Canada's cultural diversity.

Groups representing disabled persons and children, as well as churches spoke in favour of an entrenched Charter but asked that the Charter be extended to include the protection and respect of their rights.

The Indian, Métis, and Inuit groups were adamant that aboriginal and treaty rights must be entrenched.

There was general agreement that patriation of the Constitution is desirable and that mechanisms for amending the Constitution be provided. Some concern was expressed about the provision for referenda. Some witnesses were

opposed in principle to the referendum procedure; others viewed it as a deadlock-breaking mechanism but objected to Parliament holding the exclusive right to initiate the process.

The premiers of Saskatchewan, Nova Scotia and Prince Edward Island opposed the unilateral course of action principally on the ground that provincial consent should be sought before calling upon Westminster to modify substantive parts of the constitution.

The Premier of New Brunswick, however, fully supported the process adopted by the federal government since, he said, there had been sufficient opportunities for the provinces to agree on constitutional reform but time had come to move ahead.

The ''expert witnesses'' who appeared before the Committee did not agree with each other about the validity of the proposed procedure.

Professor Gil Rémillard, Professor of Law at Laval University, Professor Peter Russell, Professor of Political Science at the University of Toronto and the Most Reverend Edward W. Scott, Primate of the Anglican Church of Canada objected to the unilateral nature of the federal initiative.

On the other hand, Professor Maxwell Cohen, former dean of the Law Faculty of McGill and now Professor of Law at the University of Ottawa, and Mr. Gérard LaForest, Professor of Law at the University of Ottawa, had no doubts about parliament's power to adopt such a Resolution.

After carefully considering the submissions by the witnesses, on January 12, 1981, the Minister of Justice, the honourable Jean Chrétien, on behalf of the Canadian

government, presented the Committee with a number of suggested amendments to the resolution. They provided a clearer definition of the principle of equalization and guaranteed that the referendum procedure would be used only as a deadlock-breaking mechanism.

Several sections in the proposed Charter were redrafted, to accordance with the recommendation of many witnesses, in order to ensure the protection of rights and freedoms.

A new Part II, clause 31, was added to the Constitution Act, 1981 which recognized and affirmed both aboriginal and treaty rights. It was agreed to unanimously by the Committee.

An important amendment was added to the Proposed Resolution which is intended to have the effect of strengthening the authority of provincial governments to make laws with respect to non-renewable natural resources, forestry resources and electrical energy. Under the amendment, provincial powers with respect to exploration, development, conservation and management of these specified resources will be clarified. Also the provinces are to be given concurrent jurisdiction in interprovincial trade in these resources with federal paramountcy as well as the authority to raise revenue by ''any mode or system of taxation'' with respect to these resources.

II. The Committee's Response to the Order of Reference

Your Committee has considered the document entitled ''Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada'' published by the Government on October 2, 1980 and, in particular, has

considered (a) what amendments were necessary to the Address contained in the document, and (b) whether or not the Address as amended by the Committee should be presented on behalf of both Houses of Parliament to Her Majesty the Queen.

Your Committee recommends that the Government propose to the Senate and House of Commons for adoption a Resolution for an Address to Her Majesty the Queen Respecting the Constitution of Canada, and that such Resolution be the ''Proposed Resolution for a Joint Address to Her Majesty the Queen Respecting the Constitution of Canada'' published by the Government on October 2, 1980, as amended and approved by this Committee; and that, upon its adoption by the Senate and House of Commons, the Address be presented to Her Majesty the Queen.

Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada, as amended by the Committee

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

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

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

NOW THEREFORE the Senate and the House of Commons, in Parliament assembled, resolve that a respecful address be presented to Her Majesty the Queen in the following words:

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

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

Le Sénat et la Chambre des communes du Canada réunis en Parlement, considérant :

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

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

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

ont résolu de présenter respectueusement à Sa Majesté la Reine l'adresse dont la teneur suit :

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

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

An Act to amend the Constitution of Canada

ANNEXE A—SCHEDULE A
Loi modifiant la Constitution du Canada

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

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

Sa Très Excellente Majesté la Reine, considérant :

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

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

Constitution Act, 1981 enacted

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

Adoption de la *Loi constitutionnelle de 1981*

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

Termination of power to legislate for Canada

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

Cessation du pouvoir de légiférer pour le Canada

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

French version

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

Version française

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

Short title

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

Titre abrégé

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

SCHEDULE B

CONSTITUTION ACT, 1981

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Guarantee of Rights and Freedoms

Rights and freedoms in Canada

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

Fundamental Freedoms

Fundamental freedoms

2. Everyone has the following fundamental freedoms:

(*a*) freedom of conscience and religion;

(*b*) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

(*c*) freedom of peaceful assembly; and

(*d*) freedom of association.

Democratic Rights

Democratic rights of citizens

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

Maximum duration of legislative bodies

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

Continuation in special circumstances

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

ANNEXE B

LOI CONSTITUTIONNELLE DE 1981

PARTIE I

CHARTE CANADIENNE DES DROITS ET LIBERTÉS

Garantie des droits et libertés

Droits et libertés au Canada

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

Libertés fondamentales

Libertés fondamentales

2. Chacun a les libertés fondamentales suivantes :

a) liberté de conscience et de religion;

b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté de la presse et des autres moyens de communication;

c) liberté de réunion pacifique;

d) liberté d'association.

Droits démocratiques

Droits démocratiques des citoyens

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

Mandat maximal des assemblées

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

Prolongations spéciales

(2) Le mandat de la Chambre des communes ou celui d'une assemblée législative peut être prolongé respectivement par le Parlement ou par la législature en question au-delà de cinq ans en cas de guerre, d'invasion ou d'insurrection, réelles ou appréhendées, pourvu que cette prolongation ne fasse pas l'objet d'une opposition exprimée par les voix de plus du tiers des députés de la Chambre des communes ou de l'assemblée législative.

Annual sitting of legislative bodies

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

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

Séance annuelle

Mobility Rights

Liberté de circulation et d'établissement

Mobility of citizens

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

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

Liberté de circulation

Rights to move and gain livelihood

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

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

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

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

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

b) de gagner leur vie dans toute province.

Liberté d'établissement

Limitation

(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.

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

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

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

Restriction

Legal Rights

Garanties juridiques

Life, liberty and security of person

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

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

Vie, liberté et sécurité

Search or seizure

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

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

Fouilles, perquisitions ou saisies

Detention or imprisonment

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

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

Détention ou emprisonnement

Arrest or detention

10. Everyone has the right on arrest or detention

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

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

(*c*) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

10. Chacun a le droit, en cas d'arrestation ou de détention :

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

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

c) de faire contrôler, par *habeas corpus*, la légalité de sa détention et d'obtenir, le cas échéant, sa libération.

Arrestation ou détention

Proceedings in criminal and penal matters

11. Any person charged with an offence has the right

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

(*b*) to be tried within a reasonable time;

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

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

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

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

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

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

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

Affaires criminelles et pénales

11. Tout inculpé a le droit :

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

b) d'être jugé dans un délai raisonnable;

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

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

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

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

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

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

i) de bénéficier de la peine la moins sévère, lorsque la peine qui sanctionne l'infraction dont il est déclaré coupable est modifiée entre le moment de la perpétration de l'infraction et celui de la sentence.

Treatment or punishment

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

Cruauté

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

Self-crimination

13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except

Témoignage incriminant

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

in a prosecution for perjury or for the giving of contradictory evidence.

Interpreter

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

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

Interprète

Equality Rights

Droits à l'égalité

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

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

15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

Égalité devant la loi, égalité de bénéfice et protection égale de la loi

Affirmative action programs

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

(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.

Programmes de promotion sociale

Official Languages of Canada

Langues officielles du Canada

Official languages of Canada

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

16. (1) Le français et l'anglais sont les langues officielles du Canada; ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions du Parlement et du gouvernement du Canada.

Langues officielles du Canada

Official languages of New Brunswick

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

(2) Le français et l'anglais sont les langues officielles du Nouveau-Brunswick; ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions de la Législature et du gouvernement du Nouveau-Brunswick.

Langues officielles du Nouveau-Brunswick

Advancement of status and use

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

(3) La présente charte ne limite pas le pouvoir du Parlement et des législatures de favoriser la progression vers l'égalité de statut ou d'usage du français et de l'anglais.

Progression vers l'égalité

Proceedings of Parliament

17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.

17. (1) Chacun a le droit d'employer le français ou l'anglais dans les débats et travaux du Parlement.

Travaux du Parlement

Proceedings of New Brunswick legislature

(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

(2) Chacun a le droit d'employer le français ou l'anglais dans les débats et travaux de la Législature du Nouveau-Brunswick.

Travaux de la Législature du Nouveau-Brunswick

Parliamentary statutes and records

18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.

18. (1) Les lois, les archives, les comptes rendus et les procès-verbaux du Parlement sont imprimés et publiés en français et en anglais, les deux versions des lois ayant également force de loi et celles des autres documents ayant même valeur.

Documents parlementaires

New Brunswick statutes and records

(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

(2) Les lois, les archives, les comptes rendus et les procès-verbaux de la Législature du Nouveau-Brunswick sont imprimés et publiés en français et en anglais, les deux versions des lois ayant également force de loi et celles des autres documents ayant même valeur.

Documents de la Législature du Nouveau-Brunswick

Proceedings in courts established by Parliament

19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.

19. (1) Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent.

Procédures devant les tribunaux établis par le Parlement

Proceedings in New Brunswick courts

(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.

(2) Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux du Nouveau-Brunswick et dans tous les actes de procédure qui en découlent.

Procédures devant les tribunaux du Nouveau-Brunswick

Communications by public with federal institutions

20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

(*a*) there is a significant demand for communications with and services from that office in such language; or

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

20. (1) Le public a, au Canada, droit à l'emploi du français ou de l'anglais pour communiquer avec le siège ou l'administration centrale des institutions du Parlement ou du gouvernement du Canada ou pour en recevoir les services; il a le même droit à l'égard de tout autre bureau de ces institutions là où, selon le cas :

a) l'emploi du français ou de l'anglais fait l'objet d'une demande importante;

b) l'emploi du français et de l'anglais se justifie par la vocation du bureau.

Communications entre les administrés et les institutions fédérales

Communications by public with New Brunswick institutions

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

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

Communications entre les administrés et les institutions du Nouveau-Brunswick

Continuation of existing constitutional provisions

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

Maintien en vigueur de certaines dispositions

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

Rights and privileges preserved

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

Droits préservés

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

Minority Language Educational Rights

Droits à l'instruction dans la langue de la minorité

Language of instruction

23. (1) Citizens of Canada

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

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

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

Langue d'instruction

23. (1) Les citoyens canadiens :

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

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

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

Continuity of language instruction

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

Continuité d'emploi de la langue d'instruction

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

Application where numbers warrant

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

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

Justification par le nombre

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

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

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

b) comprend, lorsque le nombre de ces enfants le justifie, le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique financés sur les fonds publics.

Enforcement

Recours

Enforcement of guaranteed rights and freedoms

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

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

Recours en cas d'atteinte aux droits et libertés

Exclusion of evidence bringing administration of justice into disrepute

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

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

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

General

Dispositions générales

Aboriginal rights and freedoms not affected by Charter

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

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

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

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

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

b) aux droits ou libertés acquis par règlement de revendications territoriales.

Maintien des droits et libertés des autochtones

Other rights and freedoms not affected by Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

26. Le fait que la présente charte garantit certains droits et libertés ne constitue pas une négation des autres droits ou libertés qui existent au Canada.

Maintien des autres droits et libertés

Multicultural heritage

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

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

Maintien du patrimoine culturel

Rights respecting certain schools preserved

28. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of

28. Les dispositions de la présente charte ne portent pas atteinte aux droits ou privilèges garantis en vertu de la Constitution du

Maintien des droits relatifs à certaines écoles

Canada, in respect of denominational, separate or dissentient schools.

Canada concernant les écoles séparées et autres écoles confessionnelles.

Application to territories and territorial authorities

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

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

Applications aux territoires

Legislative powers not extended

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

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

Non-élargissement des compétences législatives

Application of Charter

Application de la charte

Application of Charter

31. (1) This Charter applies

(*a*) to the Parliament and government of Canada and to all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(*b*) to the legislature and government of each province and to all matters within the authority of the legislature of each province.

31. (1) La présente charte s'applique :

a) au Parlement et au gouvernement du Canada, ainsi qu'à tous les domaines relevant du Parlement, y compris ceux qui concernent le territoire du Yukon et les territoires du Nord-Ouest;

b) à la législature et au gouvernement de chaque province, ainsi qu'à tous les domaines relevant de cette législature.

Application de la charte

Exception

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

(2) Par dérogation au paragraphe (1), l'article 15 n'a d'effet que trois ans après l'entrée en vigueur, exception faite de la partie VI, de la présente loi.

Restriction

Citation

Titre

Citation

32. This Part may be cited as the *Canadian Charter of Rights and Freedoms*.

32. Titre de la présente partie : *Charte canadienne des droits et libertés*.

Titre

PART II

RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA

PARTIE II

DROIT DES PEUPLES AUTOCHTONES DU CANADA

Recognition of aboriginal and treaty rights

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

33. (1) La présente charte confirme les droits, ancestraux ou issus de traités, des peuples autochtones du Canada.

Confirmation des droits des peuples autochtones

Definition of "aboriginal peoples of Canada"

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

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

«Définition de peuples autochtones du Canada»

PART III

EQUALIZATION AND REGIONAL DISPARITIES

PARTIE III

PÉRÉQUATION ET INÉGALITÉ RÉGIONALES

Commitment to promote equal opportunities

34. (1) Without altering the legislative authority of Parliament or of the provincial

34. (1) Sous réserve des compétences législatives du Parlement et des législatures

Engagements relatifs à l'égalité des chances

legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to

(*a*) promoting equal opportunities for the well-being of Canadians;

(*b*) furthering economic development to reduce disparity in opportunities; and

(*c*) providing essential public services of reasonable quality to all Canadians.

et de leur droit de les exercer, le Parlement et les législatures, ainsi que les gouvernements fédéral et provinciaux, s'engagent à :

a) promouvoir l'égalité des chances de tous les Canadiens dans la recherche de leur bien-être;

b) favoriser le développement économique pour réduire l'inégalité des chances;

c) fournir à tous les Canadiens, à un niveau de qualité acceptable, les services publics essentiels.

Commitment respecting public services

(2) Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

Engagement relatif aux services publics

(2) Le Parlement et le gouvernement du Canada prennent l'engagement de principe de faire des paiements de péréquation propres à donner aux gouvernements provinciaux des revenus suffisants pour les mettre en mesure d'assurer les services publics à un niveau de qualité et de fiscalité sensiblement comparables.

PART IV

CONSTITUTIONAL CONFERENCES

PARTIE IV

CONFÉRENCES CONSTITUTIONNELLES

Constitutional conferences

35. (1) Until Part VI comes into force, a constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once in every year.

Conférences constitutionnelles

35. (1) Avant l'entrée en vigueur de la partie VI, le premier ministre du Canada convoque au moins une fois par an une conférence constitutionnelle réunissant les premiers ministres provinciaux et lui-même.

Participation of aboriginal peoples

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

Participation des peuples autochtones

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

Participation of territories

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

Participation des territoires

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

PART V

INTERIM AMENDMENT PROCEDURE AND RULES FOR ITS REPLACEMENT

Interim procedure for amending Constitution of Canada

36. Until Part VI comes into force, an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and by the legislative assembly or government of each province.

Amendment of provisions relating to some but not all provinces

37. Until Part VI comes into force, an amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and by the legislative assembly or government of each province to which the amendment applies.

Amendments respecting certain language rights

38. (1) Notwithstanding section 40, an amendment to the Constitution of Canada

(*a*) adding a province as a province named in subsection 16(2), 17(2), 18(2), 19(2) or 20(2), or

(*b*) otherwise providing for any or all of the rights guaranteed or obligations imposed by any of those subsections to have application in a province to the extent and under the conditions stated in the amendment,

may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and the legislative assembly of the province to which the amendment applies.

Initiation of amendment procedure

(2) The procedure for amendment prescribed by subsection (1) may be initiated only by the legislative assembly of the province to which the amendment applies.

Initiation of amendment procedures

39. (1) The procedures for amendment prescribed by sections 36 and 37 may be initiated either by the Senate or House of Commons or by the legislative assembly or government of a province.

PARTIE V

PROCÉDURE PROVISOIRE DE MODIFICATION ET RÈGLES DE REMPLACEMENT

Procédure provisoire de modification

36. Avant l'entrée en vigueur de la partie VI, la Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat et de la Chambre des communes et par l'assemblée législative ou le gouvernement de toutes les provinces.

Modification à l'égard de certaines provinces

37. Avant l'entrée en vigueur de la partie VI, les dispositions de la Constitution du Canada applicables à certaines provinces seulement peuvent être modifiées par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat et de la Chambre des communes et par l'assemblée législative ou le gouvernement de chaque province à laquelle la modification s'applique.

Modification concernant certains droits linguistiques

38. (1) Par dérogation à l'article 40, toute modification de la Constitution du Canada :

a) soit portant insertion du nom d'une province aux paragraphes 16(2), 17(2), 18(2), 19(2) ou 20(2),

b) soit prévoyant l'application à une province, aux conditions précisées dans la modification, de tout ou partie des droits ou obligations visés à ces paragraphes,

peut être prise par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de la province concernée.

Initiative de la procédure

(2) L'initiative de la procédure de modification visée au paragraphe (1) appartient à l'assemblée législative de la province concernée.

Initiative des procédures

39. (1) L'initiative des procédures de modification visées aux articles 36 et 37 appartient au Sénat, à la Chambre des communes, à l'assemblée législative d'une province ou au gouvernement de celle-ci.

Revocation of authorization

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

Possibilité de révocation

(2) La résolution adoptée ou l'autorisation donnée dans le cadre de la présente partie peut être révoquée à tout moment avant la date de la proclamation qu'elle autorise.

Limitation on use of interim amendment procedure

40. Sections 36 and 37 do not apply to an amendment to the Constitution of Canada where there is another provision in the Constitution for making the amendment, but the procedure prescribed by section 36 shall be used to amend the *Canadian Charter of Rights and Freedoms* and any provision for amending the Constitution, including this section.

Restriction du recours à la procédure provisoire

40. Les articles 36 et 37 ne s'appliquent pas aux cas de modification constitutionnelle pour lesquels une procédure différente est prévue par une autre disposition de la Constitution du Canada. La procédure visée à l'article 36 s'impose toutefois pour modifier la *Charte canadienne des droits et libertés*, ainsi que les dispositions relatives à la modification de la Constitution, y compris le présent article.

Coming into force of Part VI

41. Part VI shall come into force

(*a*) with or without amendment, on such day as may be fixed by proclamation issued pursuant to the procedure prescribed by section 36, or

(*b*) on the day that is two years after the day this Act, except Part VI, comes into force,

whichever is the earlier day but, if a referendum is required to be held under subsection 42(3), Part VI shall come into force as provided in section 43.

Entrée en vigueur de la partie VI

41. La partie VI entre en vigueur à la première des dates suivantes :

a) avec ou sans modification, à la date fixée par proclamation prise conformément à la procédure visée à l'article 36;

b) deux ans après l'entrée en vigueur, exception faite de la partie VI de la présente loi.

Il demeure entendu que, si la tenue d'un référendum s'impose conformément au paragraphe 42(3), la partie VI entre en vigueur conformément à l'article 43.

Provincial alternative procedure

42. (1) The legislative assemblies of seven or more provinces that have, according to the then latest general census, combined populations of at least eighty per cent of the population of all the provinces may make a single proposal to substitute for paragraph 45(1)(*b*) such alternative as they consider appropriate.

Proposition de remplacement

42. (1) Les assemblées législatives d'au moins sept provinces dont la population confondue représente, selon le recensement général le plus récent à l'époque, au moins quatre-vingts pour cent de la population de toutes les provinces peuvent présenter une proposition commune en vue de remplacer la procédure prévue à l'alinéa 45(1)*b*).

Procedure for perfecting alternative

(2) One copy of an alternative proposed under subsection (1) may be deposited with the Chief Electoral Officer of Canada by each proposing province within two years after this Act, except Part VI, comes into force but, prior to the expiration of that period, any province that has deposited a copy may withdraw that copy.

Possibilité de mise au point

(2) Chaque province concernée peut déposer le texte de la proposition visée au paragraphe (1) auprès du directeur général des élections du Canada dans les deux ans suivant l'entrée en vigueur, exception faite de la partie VI de la présente loi, étant entendu qu'elle peut retirer le texte au cours de cette période.

Referendum

(3) Where copies of an alternative have been deposited as provided by subsection (2) and, on the day that is two years after this Act, except Part VI, comes into force, at least seven copies remain deposited by provinces that have, according to the then latest

Référendum

(3) Dans les cas où, deux ans après l'entrée en vigueur, exception faite de la partie VI de la présente loi, au moins sept provinces remplissant les conditions démographiques visées au paragraphe (1) n'ont pas retiré leur texte, le gouvernement du Canada fait tenir,

general census, combined populations of at least eighty per cent of the population of all the provinces, the government of Canada shall cause a referendum to be held within two years after that day to determine whether

(*a*) paragraph 45(1)(*b*) or any alternative thereto approved by resolutions of the Senate and House of Commons and deposited with the Chief Electoral Officer at least ninety days prior to the day on which the referendum is held, or

(*b*) the alternative proposed by the provinces,

shall be adopted.

dans les deux années suivant l'échéance des deux ans, un référendum pour déterminer laquelle des procédures suivantes sera adoptée :

a) celle qui est prévue à l'alinéa 45(1)*b*) ou l'éventuelle procédure de remplacement adoptée par des résolutions du Sénat et de la Chambre des communes et dont le texte est déposé auprès du directeur général des élections au moins quatre-vingt-dix jours avant la date du référendum;

b) celle qui fait l'objet de la proposition des provinces.

Coming into force of Part VI where referendum held

43. Where a referendum is held under subsection 42(3), a proclamation under the Great Seal of Canada shall be issued within six months after the date of the referendum bringing Part VI into force with such modifications, if any, as are necessary to incorporate the proposal approved by a majority of the persons voting at the referendum and with such other changes as are reasonably consequential on the incorporation of that proposal.

Entrée en vigueur de la partie VI après référendum

43. Dans les six mois suivant la date du référendum, une proclamation sous le grand sceau du Canada est prise en vue de faire entrer en vigueur la partie VI, éventuellement modifiée dans la mesure nécessaire pour incorporer la proposition approuvée par la majorité des votants et pour intégrer les autres aménagements justifiés qui en découlent.

Right to vote

44. (1) Every citizen of Canada has, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, the right to vote in a referendum held under subsection 42(3).

Droit de vote

44. (1) Tout citoyen canadien a le droit de vote au référendum visé au paragraphe 42(3); ce droit ne peut être restreint que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

Establishment of Referendum Rules Commission

(2) If a referendum is required to be held under subsection 42(3), a Referendum Rules Commission shall forthwith be established by commission issued under the Great Seal of Canada consisting of

(*a*) the Chief Electoral Officer of Canada, who shall be chairman of the Commission;

(*b*) a person appointed by the Governor General in Council; and

(*c*) a person appointed by the Governor General in Council

(i) on the recommendation of the governments of a majority of the provinces, or

Constitution de la commission référendaire

(2) Dès que s'impose la tenue du référendum visé au paragraphe 42(3), il est constitué, par proclamation du gouverneur général sous le grand sceau du Canada, une commission référendaire composée :

a) du directeur général des élections du Canada, président;

b) d'une personne nommée par le gouverneur général en conseil;

c) d'une personne nommée par le gouverneur général en conseil :

(i) soit sur la recommandation des gouvernements de la majorité des provinces,

(ii) soit, si les gouvernements de la majorité des provinces ne présentent pas

(ii) if the governments of a majority of the provinces do not recommend a candidate within thirty days after the Chief Electoral Officer of Canada requests such a recommendation, on the recommendation of the Chief Justice of Canada from among persons recommended by the governments of the provinces within thirty days after the expiration of the first mentioned thirty day period or, if none are so recommended, from among such persons as the Chief Justice considers qualified.

de candidat dans les trente jours suivant la demande que leur en fait le directeur général des élections du Canada, sur la recommandation du juge en chef du Canada, le candidat ainsi présenté étant choisi parmi les personnes recommandées par les gouvernements des provinces dans les trente jours suivant l'expiration du délai de trente jours ou, faute de recommandation, parmi les personnes que le juge en chef estime qualifiées.

Duty of Commission

(3) A Referendum Rules Commission shall cause rules for the holding of a referendum under subsection 42(3) approved by a majority of the Commission to be laid before Parliament within sixty days after the Commission is established or, if Parliament is not then sitting, on any of the first ten days next thereafter that Parliament is sitting.

(3) Dans les soixante jours suivant sa constitution, la commission référendaire fait déposer devant le Parlement les règles applicables à la tenue du référendum visé au paragraphe 42(3), qu'elle aura approuvées par décision majoritaire. Si le Parlement ne siège pas, ce dépôt s'effectue dans les dix premier jours de séance ultérieurs.

Mandat de la commission

Rules for referendum

(4) Subject to subsection (1) and taking into consideration any rules approved by a Referendum Rules Commission in accordance with subsection (3), Parliament may enact laws respecting the rules applicable to the holding of a referendum under subsection 42(3).

(4) Sous réserve du paragraphe (1) et compte tenu des règles déposées conformément au paragraphe (3), le Parlement peut légiférer pour réglementer la tenue du référendum visé au paragraphe 42(3).

Réglementation du référendum

Proclamation

(5) If Parliament does not enact laws under subsection (4) respecting the rules applicable to the holding of a referendum within sixty days after receipt of a recommendation from a Referendum Rules Commission, the rules recommended by the Commission shall forthwith be brought into force by proclamation issued by the Governor General under the Great Seal of Canada.

(5) Faute par le Parlement d'avoir légiféré, conformément au paragraphe (4), dans le délai de soixante jours suivant le dépôt des règles visées au paragraphe (3), celles-ci sont mises immédiatement en vigueur par proclamation du gouverneur général sous le grand sceau du Canada.

Proclamation

Computation of period

(6) Any period when Parliament is prorogued or dissolved shall not be counted in computing the sixty day period referred to in subsection (5).

(6) Dans la computation du délai visé au paragraphe (5), ne sont pas comptés les jours pendant lesquels le Parlement est prorogé ou dissous.

Computation du délai

Rules to have force of law

(7) Subject to subsection (1), rules made under this section have the force of law and prevail over other laws made under the Constitution of Canada to the extent of any inconsistency.

(7) Sous réserve du paragraphe (1), les règles arrêtées en vertu du présent article ont force de loi et l'emportent sur les dispositions incompatibles de toute autre règle de droit fondée sur la Constitution du Canada.

Valeur de force de loi des règles

PART VI

PROCEDURE FOR AMENDING CONSTITUTION OF CANADA

General procedure for amending Constitution of Canada

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

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

(*b*) resolutions of the legislative assemblies of at least a majority of the provinces that includes

(i) every province that at any time before the issue of the proclamation had, according to any previous general census, a population of at least twenty-five per cent of the population of Canada,

(ii) two or more of the Atlantic provinces, and

(iii) two or more of the Western provinces that have in the aggregate, according to the then latest general census, a population of at least fifty per cent of the population of all of the Western provinces.

Definitions

(2) In this section,

"Atlantic provinces"

"Atlantic provinces" means the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland;

"Western provinces"

"Western provinces" means the provinces of Manitoba, British Columbia, Saskatchewan and Alberta.

Amendment authorized by referendum

46. (1) An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by a referendum held throughout Canada under subsection (2) at which

(*a*) a majority of persons voting thereat, and

(*b*) a majority of persons voting thereat in each of the provinces, resolutions of the legislative assemblies of which would be

PARTIE VI

PROCÉDURE DE MODIFICATION DE LA CONSTITUTION DU CANADA

Procédure normale de modification

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

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

b) par des résolutions des assemblées législatives d'une majorité des provinces; cette majorité doit comprendre :

(i) chaque province dont la population, avant la date de cette proclamation, représentait, selon un recensement général antérieur quelconque, au moins vingt-cinq pour cent de la population du Canada,

(ii) au moins deux des provinces de l'Atlantique,

(iii) au moins deux des provinces de l'Ouest, à condition que la population confondue des provinces consentantes représente, selon le recensement général le plus récent à l'époque, au moins cinquante pour cent de la population de l'ensemble des provinces de l'Ouest.

Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

«provinces de l'Atlantique»

«provinces de l'Atlantique» Les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard et de Terre-Neuve.

«provinces de l'Ouest»

«provinces de l'Ouest» Les provinces du Manitoba, de la Colombie-Britannique, de la Saskatchewan et de l'Alberta.

Modification autorisée par référendum

46. (1) La Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par un référendum tenu dans tout le pays conformément au paragraphe (2) et lors duquel la modification a été approuvée :

a) d'une part, à la majorité des votants;

b) d'autre part, à la majorité des votants de chacune des provinces dont les résolutions de leurs assemblées législatives suffiraient, avec les résolutions du Sénat et de

sufficient, together with resolutions of the Senate and House of Commons, to authorize the issue of a proclamation under subsection 45(1),

have approved the making of the amendment.

la Chambre des communes, à autoriser la proclamation mentionnée au paragraphe 45(1).

Authorization of referendum

(2) A referendum referred to in subsection (1) shall be held where directed by proclamation issued by the Governor General under the Great Seal of Canada, which proclamation may be issued where

(*a*) an amendment to the Constitution of Canada has been authorized under paragraph 45(1)(*a*) by resolutions of the Senate and House of Commons;

(*b*) the requirements of paragraph 45(1)(*b*) in respect of the proposed amendment have not been satisfied within twelve months after the passage of the resolutions of the Senate and House of Commons; and

(*c*) the issue of the proclamation has been authorized by the Governor General in Council.

(2) L'ordre de tenue du référendum mentionné au paragraphe (1) est donné par proclamation du gouverneur général sous le grand sceau du Canada. Cette proclamation est assujettie aux conditions suivantes :

a) le Sénat et la Chambre des communes ont, conformément à l'alinéa 45(1)*a*), adopté des résolutions autorisant la modification de la Constitution du Canada;

b) les dispositions de l'alinéa 45(1)*b*) applicables au projet de modification n'ont pas été observées dans les douze mois suivant l'adoption des résolutions du Sénat et de la Chambre des communes;

c) le gouverneur général en conseil a autorisé la proclamation.

Autorisation de référendum

Time limit for referendum

(3) A proclamation issued under subsection (2) in respect of a referendum shall provide for the referendum to be held within two years after the expiration of the twelve month period referred to in paragraph (*b*) of that subsection.

(3) La proclamation visée au paragraphe (2) fixe la tenue du référendum pour une date comprise dans les deux ans qui suivent l'expiration du délai de douze mois mentionné à l'alinéa *b*) de ce paragraphe.

Délai de tenue du référendum

Amendment of provisions relating to some but not all provinces

47. An amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies.

47. Les dispositions de la Constitution du Canada applicables à certaines provinces seulement peuvent être modifiées par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de chaque province à laquelle la modification s'applique.

Modification à l'égard de certaines provinces

Amendments respecting certain language rights

48. (1) Notwithstanding section 54, an amendment to the Constitution of Canada

(*a*) adding a province as a province named in subsection 16(2), 17(2), 18(2), 19(2) or 20(2), or.

(*b*) otherwise providing for any or all of the rights guaranteed or obligations imposed by any of those subsections to have application in a province to the extent and under the conditions stated in the amendment,

48. (1) Par dérogation à l'article 54, toute modification de la Constitution du Canada

a) soit portant insertion du nom d'une province aux paragraphes 16(2), 17(2), 18(2), 19(2) ou 20(2),

b) soit prévoyant l'application à une province, aux conditions précisées dans la modification, de tout ou partie des droits ou obligations visés à ces paragraphes,

Modification concernant certains droits linguistiques

may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and the legislative assembly of the province to which the amendment applies.

peut être prise par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de la province concernée.

Initiation of amendment procedure

(2) The procedure for amendment prescribed by subsection (1) may be initiated only by the legislative assembly of the province to which the amendment applies.

Initiative de la procédure

(2) L'initiative de la procédure de modification visée au paragraphe (1) appartient à l'assemblée législative de la province concernée.

Initiation of amendment procedures

49. (1) The procedures for amendment prescribed by subsection 45(1) and section 47 may be initiated either by the Senate or House of Commons or by the legislative assembly of a province.

Initiative des procédures

49. (1) L'initiative des procédures de modification visées au paragraphe 45(1) et à l'article 47 appartient au Sénat, à la Chambre des communes ou à l'assemblée législative d'une province.

Revocation of authorization

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

Possibilité de révocation

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

Right to vote

50. (1) Every citizen of Canada has, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, the right to vote in a referendum held under section 46.

Droit de vote

50. (1) Tout citoyen canadien a le droit de vote au référendum visé à l'article 46; ce droit ne peut être restreint que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

Establishment of Referendum Rules Commission

(2) Where a referendum is to be held under section 46, a Referendum Rules Commission shall forthwith be established by commission issued under the Great Seal of Canada consisting of

Constitution de la commission référendaire

(2) Dès que s'impose la tenue du référendum visé à l'article 46, il est constitué, par proclamation du gouverneur général sous le grand sceau du Canada, une commission référendaire composée :

(*a*) the Chief Electoral Officer of Canada, who shall be chairman of the Commission;

a) du directeur général des élections du Canada, président;

(*b*) a person appointed by the Governor General in Council; and

b) d'une personne nommée par le gouverneur général en conseil;

(*c*) a person appointed by the Governor General in Council

c) d'une personne nommée par le gouverneur général en conseil :

(i) on the recommendation of the governments of a majority of the provinces, or

(i) soit sur la recommandation des gouvernements de la majorité des provinces,

(ii) if the governments of a majority of the provinces do not recommend a candidate within thirty days after the Chief Electoral Officer of Canada requests such a recommendation, on the recommendation of the Chief Justice of Canada from among persons recommended by the governments of the prov-

(ii) soit, si les gouvernements de la majorité des provinces ne présentent pas de candidat dans les trente jours suivant la demande que leur en fait le directeur général des élections du Canada, sur la recommandation du juge en chef du Canada, le candidat ainsi présenté étant choisi parmi les personnes recommandées par les gouvernements des provin-

inces within thirty days after the expiration of the first mentioned thirty day period or, if none are so recommended, from among such persons as the Chief Justice considers qualified.

ces dans les trente jours suivant l'expiration du délai de trente jours ou, faute de recommandation, parmi les personnes que le juge en chef estime qualifiées.

Duty of Commission

(3) A Referendum Rules Commission shall cause rules for the holding of a referendum under section 46 approved by a majority of the Commission to be laid before Parliament within sixty days after the Commission is established or, if Parliament is not then sitting, on any of the first ten days next thereafter that Parliament is sitting.

(3) Dans les soixante jours suivant sa constitution, la commission référendaire fait déposer devant le Parlement les règles applicables à la tenue du référendum visé à l'article 46, qu'elle aura approuvées par décision majoritaire. Si le Parlement ne siège pas, ce dépôt s'effectue dans les dix premier jours de séance ultérieurs.

Mandat de la commission

Rules for referendum

(4) Subject to subsection (1) and taking into consideration any rules approved by a Referendum Rules Commission in accordance with subsection (3), Parliament may enact laws respecting the rules applicable to the holding of a referendum under section 46.

(4) Sous réserve du paragraphe (1) et compte tenu des règles déposées conformément au paragraphe (3), le Parlement peut légiférer pour réglementer la tenue du référendum visé à l'article 46.

Réglementation du référendum

Proclamation

(5) If Parliament does not enact laws under subsection (4) respecting the rules applicable to the holding of a referendum within sixty days after receipt of a recommendation from a Referendum Rules Commission, the rules recommended by the Commission shall forthwith be brought into force by proclamation issued by the Governor General under the Great Seal of Canada.

(5) Faute par le Parlement d'avoir légiféré, conformément au paragraphe (4), dans le délai de soixante jours suivant le dépôt des règles visées au paragraphe (3), celles-ci sont mises immédiatement en vigueur par proclamation du gouverneur général sous le grand sceau du Canada.

Proclamation

Computation of period

(6) Any period when Parliament is prorogued or dissolved shall not be counted in computing the sixty day period referred to in subsection (5).

(6) Dans la computation du délai visé au paragraphe (5), ne sont pas comptés les jours pendant lesquels le Parlement est prorogé ou dissous.

Computation du délai

Rules to have force of law

(7) Subject to subsection (1), rules made under this section have the force of law and prevail over other laws made under the Constitution of Canada to the extent of any inconsistency.

(7) Sous réserve du paragraphe (1), les règles arrêtées en vertu du présent article ont force de loi et l'emportent sur les dispositions incompatibles de toute autre règle de droit fondée sur la Constitution du Canada.

Valeur de force de loi des règles

Limitation on use of general amendment procedure

51. (1) The procedures prescribed by section 45, 46 or 47 do not apply to an amendment to the Constitution of Canada where there is another provision in the Constitution for making the amendment, but the procedures prescribed by section 45 or 46 shall, nevertheless, be used to amend any provision for amending the Constitution, including this section.

51. (1) Les articles 45, 46 ou 47 ne s'appliquent pas aux cas de modification constitutionnelle pour lesquels une procédure différente est prévue par une autre disposition de la Constitution du Canada. La procédure visée aux articles 45 ou 46 s'impose toutefois pour modifier les dispositions relatives à la modification de la Constitution, y compris le présent article.

Restriction du recours à la procédure normale de modification

Idem

(2) The procedures prescribed by section 45 or 46 do not apply in respect of an amendment referred to in section 47.

(2) Les procédures prévues aux articles 45 ou 46 ne s'appliquent pas à la modification visée à l'article 47.

Idem

Amendments by Parliament

52. Subject to section 54, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate or House of Commons.

52. Sous réserve de l'article 54, le Parlement a compétence exclusive pour modifier les dispositions de la Constitution du Canada relatives au pouvoir exécutif fédéral, au Sénat et à la Chambre des communes.

Modification par le Parlement

Amendments by provincial legislatures

53. Subject to section 54, the legislature of each province may exclusively make laws amending the constitution of the province.

53. Sous réserve de l'article 54, la législature de chaque province a compétence exclusive pour modifier la constitution de celle-ci.

Modification par les législatures provinciales

Matters requiring amendment under general amendment procedure

54. An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with a procedure prescribed by section 45 or 46:

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

(*b*) the *Canadian Charter of Rights and Freedoms;*

(*c*) the commitments relating to equalization and regional disparities set out in section 34;

(*d*) the powers of the Senate;

(*e*) the number of members by which a province is entitled to be represented in the Senate;

(*f*) the method of selecting Senators and the residence qualifications of Senators;

(*g*) the right of a province to a number of members in the House of Commons not less than the number of Senators representing the province; and

(*h*) the principles of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada.

54. Toute modification de la Constitution du Canada portant sur les questions suivantes se fait selon la procédure visée aux articles 45 ou 46 :

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

b) la *Charte canadienne des droits et libertés*;

c) les engagements énoncés, en matière de péréquation et d'inégalités régionales, à l'article 34;

d) les pouvoirs du Sénat;

e) le nombre de sénateurs représentant chaque province au Sénat;

f) le mode de sélection des sénateurs et les conditions de résidence qu'ils doivent remplir;

g) le droit d'une province d'avoir à la Chambre des communes un nombre de députés au moins égal à celui de ses sénateurs;

h) les principes de la représentation proportionnelle des provinces à la Chambre des communes prévus par la Constitution du Canada.

Recours obligatoire à la procédure normale de modification

Consequential amendments

55. (1) Class 1 of section 91 and class 1 of section 92 of the *Constitution Act, 1867* (formerly named the *British North America Act, 1867*), the *British North America (No. 2) Act, 1949*, referred to in item 22 of Schedule I to this Act and Parts IV and V of this Act are repealed.

55. (1) La rubrique 1 de l'article 91 et la rubrique 1 de l'article 92 de la *Loi constitutionnelle de 1867* (antérieurement désignée sous le titre : *Acte de l'Amérique du Nord britannique, 1867*), l'*Acte de l'Amérique du Nord britannique (nº 2), 1949*, mentionné au nº 22 de l'annexe I de la présente loi, et les parties IV et V de la présente loi sont abrogés.

Modifications corrélatives

Idem

(2) When Parts IV and V of this Act are repealed, this section may be repealed and this Act may be renumbered, consequential upon the repeal of those Parts and this section, by proclamation issued by the Governor General under the Great Seal of Canada.

Idem

(2) Dès l'abrogation des parties IV et V de la présente loi, le gouverneur général peut, par proclamation sous le grand sceau du Canada, abroger le présent article et changer en conséquence de cette double abrogation la numérotation de la présente loi.

PART VII

AMENDMENT TO THE CONSTITUTION ACT, 1867

PARTIE VII

MODIFICATION DE LA LOI CONSTITUTIONNELLE DE 1867

Amendment to *Constitution Act, 1867*

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

Modification de la *Loi constitutionnelle de 1867*

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

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

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

Laws respecting non-renewable natural resources, forestry resources and electrical energy

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

(*a*) exploration for non-renewable natural resources in the province;

(*b*) development, conservation and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom; and

(*c*) development, conservation and management of sites and facilities in the province for the generation and production of electrical energy.

Compétence provinciale

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

a) prospection des ressources naturelles non renouvelables de la province;

b) exploitation, conservation et gestion des ressources naturelles non renouvelables et des ressources forestières de la province, y compris leur rythme de production primaire;

c) aménagement, conservation et gestion des emplacements et des installations de la province destinés à la production d'énergie électrique.

Export from provinces of resources

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

Exportation hors des provinces

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

Authority of Parliament

(3) Nothing in subsection (2) derogates from the authority of Parliament to enact laws in relation to the matters referred to

Pouvoir du Parlement

(3) Le paragraphe (2) ne porte pas atteinte au pouvoir du Parlement de légiférer dans les domaines visés à ce paragra-

in that subsection and, where such a law of Parliament and a law of a province conflict, the law of Parliament prevails to the extent of the conflict.

phe, les dispositions d'une loi du Parlement adoptée dans ces domaines l'emportant sur les dispositions incompatibles d'une loi provinciale.

Taxation of resources

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

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

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

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

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

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

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

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

Taxation des ressources

"Primary production"

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

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

«Production primaire»

Existing powers or rights

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

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

Pouvoirs ou droits existants

Idem

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

57. La présente loi est en outre modifiée par l'adjonction de l'annexe suivante :

Idem

"THE SIXTH SCHEDULE

Primary Production from Non-Renewable Natural Resources and Forestry Resources

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

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

«SIXIÈME ANNEXE

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

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

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

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

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

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

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

(ii) soit le produit non manufacturé de la transformation, du raffinage ou de l'affinage d'une ressource, à l'exception du produit du raffinage du pétrole brut, du raffinage du pétrole brut lourd amélioré, du raffinage des gaz ou des liquides dérivés du charbon ou du raffinage d'un équivalent synthétique du pétrole brut;

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

PART VIII

GENERAL

PARTIE VIII

DISPOSITIONS GÉNÉRALES

Primacy of Constitution of Canada

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

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

Primauté de la Constitution du Canada

Constitution of Canada

(2) The Constitution of Canada includes

(*a*) the *Canada Act*;

(*b*) the Acts and orders referred to in Schedule I; and

(*c*) any amendment to any Act or order referred to in paragraph (*a*) or (*b*).

(2) La Constitution du Canada comprend :

a) la *Loi sur le Canada*;

b) les textes législatifs et les décrets figurant à l'annexe I;

c) les modifications aux textes législatifs et aux décrets mentionnés aux alinéas *a*) ou *b*).

Constitution du Canada

Amendments to Constitution of Canada

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

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

Modification

Repeals and new names

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

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

Abrogation et nouveaux titres

Consequential amendments

(2) Every enactment, except the *Canada Act*, that refers to an enactment referred to in Schedule I by the name in Column I thereof is hereby amended by substituting

(2) Toute loi, sauf la *Loi sur le Canada*, qui fait mention d'une loi figurant à l'annexe I par le titre indiqué à la colonne I est modifiée par substitution à ce titre du titre

Modifications corrélatives

for that name the corresponding name in Column III thereof, and any British North America Act not referred to in Schedule I may be cited as the *Constitution Act* followed by the year and number, if any, of its enactment.

correspondant mentionné à la colonne III; tout Acte de l'Amérique du Nord Britannique non mentionné à l'annexe I peut être cité sous le titre de *Loi constitutionnelle* suivi de l'indication de l'année de son adoption et éventuellement de son numéro.

French version of Constitution of Canada

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

Version française de certains textes constitutionnels

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

English and French versions of certain constitutional texts

61. Where any portion of the Constitution of Canada has been or is enacted in English and French or where a French version of any portion of the Constitution is enacted pursuant to section 60, the English and French versions of that portion of the Constitution are equally authoritative.

Versions française et anglaise de certains textes constitutionnels

61. Les versions française et anglaise des parties de la Constitution du Canada adoptées dans ces deux langues ont également force de loi. En outre, ont également force de loi, dès l'adoption, dans le cadre de l'article 60, d'une partie de la version française de la Constitution, cette partie et la version anglaise correspondante.

English and French versions of this Act

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

Versions française et anglaise de la présente loi

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

Commencement

63. Subject to section 64, this Act shall come into force on a day to be fixed by proclamation issued by the Governor General under the Great Seal of Canada.

Entrée en vigueur

63. Sous réserve de l'article 64, la présente loi entre en vigueur au jour fixé par proclamation du gouverneur général sous le grand sceau du Canada.

Exception

64. Part VI shall come into force as provided in Part V.

Exception

64. La partie VI entre en vigueur dans les conditions prévues à la partie V.

Short title and citations

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

Titres

65. Titre abrégé de la présente annexe : *Loi constitutionnelle de 1981*; titre commun des lois constitutionnelles de 1867 à 1975 (nº 2) et de la présente loi : *Lois constitutionnelles de 1867 à 1981*.

SCHEDULE I

to the

CONSTITUTION ACT, 1981

MODERNIZATION OF THE CONSTITUTION

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

ANNEXE I

LOI CONSTITUTIONNELLE DE 1981

ACTUALISATION DE LA CONSTITUTION

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

SCHEDULE I

to the

CONSTITUTION ACT, 1981—*Continued*

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

ANNEXE I (*suite*)

LOI CONSTITUTIONNELLE DE 1981

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

SCHEDULE I

to the

CONSTITUTION ACT, 1981—*Continued*

Item	Column I Act Affected	Column II Amendment	Column III New Name
19.	British North America Act, 1943, 6-7 Geo. VI, c. 30 (U.K.)	The Act is repealed.	
20.	British North America Act, 1946, 9-10 Geo. VI, c. 63 (U.K.)	The Act is repealed.	
21.	British North America Act, 1949, 12-13 Geo. VI, c. 22 (U.K.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the *Newfoundland Act*."	Newfoundland Act
22.	British North America (No. 2) Act, 1949, 13 Geo. VI, c. 81 (U.K.)	The Act is repealed. (effective when section 55 of the *Constitution Act, 1981* comes into force)	
23.	British North America Act, 1951, 14-15 Geo. VI, c. 32 (U.K.)	The Act is repealed.	
24.	British North America Act, 1952, 1 Eliz. II, c. 15 (Can.)	The Act is repealed.	
25.	British North America Act, 1960, 9 Eliz. II, c. 2 (U.K.)	Section 2 is repealed and the following substituted therefor: "2. This Act may be cited as the *Constitution Act, 1960*."	Constitution Act, 1960
26.	British North America Act, 1964, 12-13 Eliz. II, c. 73 (U.K.)	Section 2 is repealed and the following substituted therefor: "2. This Act may be cited as the *Constitution Act, 1964*."	Constitution Act, 1964
27.	British North America Act, 1965, 14 Eliz. II, c. 4, Part I (Can.)	Section 2 is repealed and the following substituted therefor: "2. This Part may be cited as the *Constitution Act, 1965*."	Constitution Act, 1965

ANNEXE I (*suite*)

LOI CONSTITUTIONNELLE DE 1981

	Colonne I Loi visée	Colonne II Modification	Colonne III Nouveau titre
19.	Acte de l'Amérique du Nord britannique, 1943, 6-7 Geo. VI, c. 30 (R.-U.)	La loi est abrogée.	
20.	Acte de l'Amérique du Nord britannique, 1946, 9-10 Geo. VI, c. 63 (R.-U.)	La loi est abrogée.	
21.	Acte de l'Amérique du Nord britannique, 1949, 12-13 Geo. VI, c. 22 (R.-U.)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : *Loi sur Terre-Neuve*.»	Loi sur Terre-Neuve
22.	Acte de l'Amérique du Nord britannique (N° 2), 1949, 13 Geo. VI, c. 81 (R.-U.)	La loi est abrogée lors de l'entrée en vigueur de l'article 55 de la *Loi constitutionnelle de 1981*.	
23.	Acte de l'Amérique du Nord britannique, 1951, 14-15 Geo. VI, c. 32 (R.-U.)	La loi est abrogée.	
24.	Acte de l'Amérique du Nord britannique, 1952, 1 Eliz. II, c. 15 (Canada)	La loi est abrogée.	
25.	Acte de l'Amérique du Nord britannique, 1960, 9 Eliz. II, c. 2 (R.-U.)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé : *Loi constitutionnelle de 1960*.»	Loi constitutionnelle de 1960
26.	Acte de l'Amérique du Nord britannique, 1964, 12-13 Eliz. II, c. 73 (R.-U.)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé : *Loi constitutionnelle de 1964*.»	Loi constitutionnelle de 1964
27.	Acte de l'Amérique du Nord britannique, 1965, 14 Eliz. II, c. 4, Partie I (Canada)	L'article 2 est abrogé et remplacé par ce qui suit : «2. Titre abrégé de la présente partie : *Loi constitutionnelle de 1965*.»	Loi constitutionnelle de 1965

SCHEDULE I

to the

CONSTITUTION ACT, 1981—*Concluded*

Item	Column I Act Affected	Column II Amendment	Column III New Name
28.	British North America Act, 1974, 23 Eliz. II, c. 13, Part I (Can.)	Section 3, as amended by 25-26 Eliz. II, c. 28, s. 38(1) (Can.) is repealed and the following substituted therefor: "3. This Part may be cited as the *Constitution Act, 1974*."	Constitution Act, 1974
29.	British North America Act, 1975, 23-24 Eliz. II, c. 28, Part I (Can.)	Section 3, as amended by 25-26 Eliz. II, c. 28, s. 31 (Can.) is repealed and the following substituted therefor: "3. This Part may be cited as the *Constitution Act (No. 1), 1975*."	Constitution Act (No. 1), 1975
30.	British North America Act (No. 2), 1975, 23-24 Eliz. II, c. 53 (Can.)	Section 3 is repealed and the following substituted therefor: "3. This Act may be cited as the *Constitution Act (No. 2), 1975*."	Constitution Act (No. 2), 1975

ANNEXE I (*fin*)

LOI CONSTITUTIONNELLE DE 1981

	Colonne I Loi visée	Colonne II Modification	Colonne III Nouveau titre
28.	Acte de l'Amérique du Nord britannique, 1974, 23 Eliz. II, c. 13, Partie I (Canada)	L'article 3, modifié par le paragraphe 38(1) de la loi 25-26 Elizabeth II, c. 28 (Canada), est abrogé et remplacé par ce qui suit : «3. Titre abrégé de la présente partie : *Loi constitutionnelle de 1974*.»	Loi constitutionnelle de 1974
29.	Acte de l'Amérique du Nord britannique, 1975, 23-24 Eliz. II, c. 28, Partie I (Canada)	L'article 3, modifié par l'article 31 de la loi 25-26 Elizabeth II, c. 28 (Canada), est abrogé et remplacé par ce qui suit : «3. Titre abrégé de la présente partie : *Loi constitutionnelle n° 1 de 1975*.»	Loi constitutionnelle n° 1 de 1975
30.	Acte de l'Amérique du Nord britannique n° 2, 1975, 23-24 Eliz. II, c. 53 (Canada)	L'article 3 est abrogé et remplacé par ce qui suit : «3. Titre abrégé : *Loi constitutionnelle n° 2 de 1975*.»	Loi constitutionnelle n° 2 de 1975

A copy of the relevant Minutes of Proceedings and Evidence (Issues Nos. 1 to 57 inclusive) is tabled.

Respectfully submitted,

HARRY HAYS
SERGE JOYAL
Joint Chairmen.

DRAFT #1

The Special Joint Committee on the Constitution of Canada was established by an Order of Reference adopted on October 23, 1980 by the House of Commons and on November 3, 1980 by the Senate. Its Order of Reference reads as follows:

> ''That a Special Joint Committee of the Senate and of the House of Commons be appointed to consider and report upon the document entitled ''Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada'' published by the Government on October 2, 1980, and to recommend in their report whether or not such an Address, with such amendments as the Committee considers necessary, should be presented by both Houses of Parliament to Her Majesty the Queen''.

The Committee's report is divided into two main parts. The first part entitled ''General Observations and ~~Recommendations~~'' describes the Committee's activities and summarizes the evidence presented orally or in writing by individuals, ~~and groups,~~ concerning constitutional amendment procedures and issues related to the proposed resolution but not directly to its specific content. The second part of the report presents the Committee's response to its Order of Reference as to whether or not an Address should be presented to Her Majesty the Queen.

~~General Observations and Recommendations~~

A. General Observations

Citizen Mass Participation

1. The Public Hearings

After calling for briefs, the Committee held public hearings between November 6, 1980 and January 9, 1981, sitting for 35 days for a period of 176 1/2 hours. Between January 9 and February 9 the Committee studied the Resolution in depth clause by clause for ? hours.

Four provincial governments, the 2 territorial governments, 4 provincial political parties, 5 constitutional authorities and 93 groups appeared as witnesses. The groups represented a broad cross-section of Canadian society including civil liberty and human rights organizations, women's associations, the business community, the Bar, language minorities, ethno-cultural associations, Indian, Inuit and Métis associations, police chiefs, churches, associations concerned with the rights of children, the handicapped and homosexuals. Furthermore, as of February 2nd, 914 individuals and 294 groups sent letters, telegrams and briefs to the Committee. A list of those who gave evidence as witnesses is attached as appendix "A". A list of those who have made submissions to the Committee as of February ?, 1981, is attached as appendix "B". The remarkably large number of submissions is proof

of the great interest and the direct involvement of Canadians in the process of constitutional reform.

2. Summary of the Evidence

The resolution proposes to patriate a Canadian constitution, with an entrenched amending formula, the principle of equalization and a Charter of rights and freedoms by means of a joint address of the Senate and the House of Commons to Her Majesty the Queen inviting the Parliament of the United Kingdom to enact the Canada Act, which contains in Schedule B, the Constitution Act 1981.

Most of the evidence presented to the Committee concerned a Charter of rights and freedoms. A few witnesses opposed in principle the entrenchment of rights and their inclusion in the Canadian constitution by a statute of the Parliament of Britain. The majority, however, wanted an entrenched Charter and suggested amendments to the proposed constitution that would be more effective in protecting the rights and freedoms of every person.

There was, inevitably, considerable repetition in the evidence: the following examples are typical of the most cogent arguments presented by witnesses:

The Canadian Human Rights Commissioner supported the

principle of an entrenched Charter of rights, but he found the original version flawed. He suggested that the wording of the original limitations section, clause 1, and the equal rights provisions in clause 15(1) be strengthened.

Representatives of the National Action Committee on the Status of Women and the Canadian Advisory Council on the Status of Women supported an entrenched Charter of rights while insisting that women must have equality in the law as well as before it.

The Canadian Jewish Congress wanted an entrenched charter of rights "both as a symbolic and substantive affirmation of our rights as well as an appropriate remedy to secure them", but felt that some sections needed to be drafted more clearly.

The Canadian Civil Liberties Association was emphatic about the need to change the limitations built into clause 1, the legal rights clauses and the original clause 26 which concerned the admissibility of evidence.

Cultural groups, including the anglophone and Italian communities of Quebec, francophone groups outside Quebec, as well as the German, Japanese, Black, Polish, Afro-Asian and Ukrainian associations, wanted an entrenched charter. Many of these groups recognized the need to respect the bilingual

nature of Canadian society.

The President of "La Fédération des Francophones hors Québec" said the language rights included in the Charter do not go far enough, deploring the fact that Section 133 of the British North America Act had not been applied to Ontario or New Brunswick; on the other hand, he supported the principle of guaranteeing minority language education rights across the country.

The multicultural groups were particularly concerned that the draft of the Charter did not adequately address itself to the reality of Canada's cultural diversity.

Groups representing disabled persons, churches, and children also spoke in favour of an entrenched Charter but asked that the resolution be extended to include the protection and respect of their rights.

The Indian, Métis, and Inuit groups were adamant that aboriginal and treaty rights must be entrenched.

There was general agreement that patriation of the constitution was desirable and that the mechanisms provided for amending the constitution were ~~acceptable~~ to be provided. Some concern was expressed about the provision for referenda, as an ~~alternative and parallel mechanism to the new amending formula. A few~~ Some witnesses were opposed in principle to the referendum procedure ~~as an on-going formula to amend the constitution;~~ others viewed it as a deadlock-breaking

mechanism but objected to Parliament holding the exclusive right to initiate the process.

* See bottom of page 8, and page 9

After carefully considering the submissions by the witnesses, on January 12, 1981, the Minister of Justice, the honourable Jean Chrétien, on behalf of the Canadian government, presented the Committee with a number of suggested amendments to the resolution. They provided a clearer definition of the principle of equalization and guaranteed that the referendum procedure would be used only as a deadlock-breaking mechanism, with its rules established by a federal-provincial commission.

Several sections in the proposed Charter were redrafted, as suggested by many witnesses, in order to ensure the protection of rights and freedoms.

Reaction to these proposed amendments was immediate and enthusiastic.

The Canadian Human Rights Commissioner said that he was "delighted" with the "substantive changes" proposed by the Minister. The changes were also strongly endorsed by the Chairpersons of the Canadian Jewish Congress, the Canadian Civil Liberties Association, the Advisory Council on the Status of Women, the Commissioner of Official Languages and the Coalition of Provincial Organizations and

the Canadian Council on Multiculturalism.

The Commissioner of Official Languages was pleased that official bilingualism was to be extended to New Brunswick although he was dissatisfied with the fact that the same language rights would not be granted within Ontario.

The National Coordinator of the Coalition of Provincial Organizations for the Handicapped congratulated the government after the committee unanimously agreed to accept the inclusion of "physical and mental handicap" in the equality rights clause, section 15(1).

Although some of the Indian, Métis, and Inuit groups felt the proposal in regard to aboriginal rights was a step forward, the leaders of the National Indian Brotherhood, the Native Council of Canada, and the Inuit Committee on National Issues were convinced that the amendments of January 12 had not secured their aboriginal rights. A dramatic reversal in this attitude occurred following negotiations on January 30, 1981. A new Part II, clause 31, was added to the Constitution Act, 1981 which recognized and affirmed both aboriginal and treaty rights. It was agreed to unanimously by the Committee.

~~On February 3, 1981,~~ An important amendment was added

to the Proposed Resolution which is intended to have the effect of strengthening the authority of provincial governments to make laws with respect to non-renewable natural resources, forestry resources and electrical energy. Under the amendment, provincial powers with respect to exploration, development, conservation and management of these specified resources will be clarified. Also the provinces are to be given concurrent jurisdiction in interprovincial trade in these resources with federal paramountcy as well as the authority to raise revenue by "any mode or system of taxation" with respect to these resources.

The Committee received relatively little evidence concerning the proposed procedure involved in patriating the constitution. While the lack of unanimous provincial consent was deplored, most of the groups did not comment on the legal or constitutional validity of proceeding with the adoption of the resolution by Parliament without provincial consent. On the other hand it came under heavy fire from three of the four Premiers who appeared before the Committee.

* The premiers of Saskatchewan, Nova Scotia and Prince Edward Island opposed the unilateral course of action

principally on the ground that it violates the long standing convention of seeking provincial consent before calling upon Westminster to modify substantive parts of the constitution.

The Premier of New Brunswick, however, fully supported the process adopted by the federal government since, he said, there had been sufficient opportunities for the provinces to agree on constitutional reform but ~~they had refused to take advantage of them.~~

The "expert witnesses" who appeared before the Committee did not agree about the validity of the proposed procedure.

Professor Gil Rémillard, Professor of Law at Laval University, Professor Peter Russell, Professor of Political Science at the University of Toronto and the Most Reverend Edward W. Scott, Primate of the Anglican Church of Canada objected to the unilateral nature of the federal initiative.

On the other hand, Professor Maxwell Cohen, former dean of the Law Faculty of McGill and now Professor of Law at the University of Ottawa, and Mr. Gérard LaForest, Professor of Law at the University of Ottawa, had no doubts about parliament's power to act unilaterally.

~~General Recommendations~~

We highly recommend parliamentarians of both Houses be involved in the process. Our Committee has proved its usefulness during the first phase and it has provided a forum that has allowed the participation of the public. A similar joint committee could make an even greater contribution during the next phase. It could continue to hear evidence from individuals and groups and it would undoubtedly make recommendations of its own. Governments would not have to negotiate in isolation on matters as important as constitutional reform.

II. The Committee's Response to the Order of Reference

Your Committee has considered the document entitled "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" published by the Government on October 2, 1980 and, in particular, has considered (a) what amendments were necessary to the Address contained in the document, and (b) whether or not the Address as amended by the Committee should be presented on behalf of both Houses of Parliament to Her Majesty the Queen.

Your Committee recommends that the Address, as amended by the Committee, be presented on behalf of both

Pr Cite

Appendix ("A"

Groups and individuals who appeared and gave evidence before the Committee (listed in alphabetical order). The Issue of the Minutes of Proceedings and Evidence of the Committee in which their evidence is recorded is indicated.

Advisory Council on the Status of Women:--Issue 9

Doris Anderson, President;

Lucie Pépin, Vice-President for Eastern Canada;

Mary Eberts, Legal Counsel;

Nicole Duplé, Laval University;

Beverly Baines.

Afro-Asian Foundation of Canada:--Issue 32

Sebastian Alakatusery, Chairman;

Carole Christinson.

Aird, P. L. Professor, Faculty of Forestry, University of Toronto.--Issue 24

Alberta Chamber of Commerce:--Issue 27

Reinhold Lehr, President;

Duncan McKillop, Chairman of Task Force on Constitutional Change;

Maureen Mahoney, Public Affairs Manager.

Alberta Social Credit Party:--Issue 33

Rod Sykes, Leader.

Algonquin Council:--Issue 31

Lena Nottaway;

William Commanda;

Richard Kistabish;

Salomon Wawatie;

Major Kistabish;

Louis Jerome;

APPENDIX "A"

Orders of Reference of the Senate

Extract from the Minutes of the Proceedings of the Senate November 3, 1980:

''The Senate resumed the debate on the motion of the Honourable Senator Perrault, P.C., seconded by the Honourable Senator Frith:

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consider and report upon the document entitled ''Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada'' published by the Government on October 2, 1980, and to recommend in their report whether or not such an Address, with such amendments as the Committee considers necessary, should be presented by both Houses of Parliament to Her Majesty the Queen;

That ten Members of the Senate, to be designated at a later date, act on behalf of the Senate as members of the Special Joint Committee;

That the Committee have power to appoint from among its members such sub-committees as may be deemed advisable and necessary and to delegate to such sub-committees all or any of their powers except the power to report directly to the Senate;

That the Committee have power to sit during sittings adjournments of the Senate;

That the Committee have power to send for persons, papers and records, and to examine witnesses and to bring such papers and evidence from day to day as may be ordered by the Committee;

DRAFT-2

CONFIDENTIAL
UNTIL PRESENTED
IN THE HOUSE

1. The ''Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada'' has the honour to report as follows:

Orders of Reference

2. The Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada was established pursuant to Orders of Reference adopted on October 23, 1980 by the House of Commons and on November 3, 1980 by the Senate. The Orders of Reference read in part as follows:

> ''That a Special Joint Committee of the Senate and of the House of Commons be appointed to consider and report upon the document entitled ''Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada'' published by the Government on October 2, 1980, and to recommend in their report whether or not such an Address, with such amendments as the Committee considers necessary, should be presented by both Houses of Parliament to Her Majesty the Queen;''

3. Additional Orders of Reference were issued by both Houses. The complete text of all Orders of Reference is set out in Appendix A.

Introduction

4. The Committee's report is divided into four main parts. Part I is entitled ''Organization of Committee's Work'' and describes the Committee's activities. Part II is

entitled ''Summary of Evidence'' and outlines the evidence presented orally or in writing by groups, governments and individuals. Part III describes the Committee's response to the submissions received by it and Part IV sets out the Committee's recommendation as to whether or not an Address should be presented to Her Majesty the Queen.

I. Organization of Committee's Work

1. Initial Action

5. The Committee commenced sitting on November 6, 1980. By advertisements published in the major daily newspapers throughout Canada, the Committee asked for written submissions and indicated that witnesses would be invited to appear. On Monday, November 17, 1980, pursuant to Orders of both Houses, the sittings of the Committee commenced to be broadcast on television and radio. It was the first time that the proceedings of a Committee of Parliament were broadcast on a regular basis.

2. Outline of Activities

6. The work of the Committee fell into four phases. On November 7, the Minister of Justice, the Honourable Jean Chrétien, the first witness, made his opening statement. On November 12 and 13, he was examined by Committee members. From November 14 to January 9, witnesses representing groups and governments, and individual witnesses, were heard. On January 12, the Minister of Justice returned for the ''clause by clause'' consideration which continued until February 9. Thereupon, the committee proceeded in camera to prepare this Report.

7. A total of 51 senators and 131 members of the

House of Commons served on the Committee. The Committee held 106 meetings on 56 sitting days for a total of 267 sitting hours. The Minister of Justice appeared as a witness 39 times and the acting Minister, the Honourable R. Kaplan, appeared on his behalf 9 times. Clause by clause consideration occupied 90.5 hours.

8. The resources of both Houses of Parliament and the Library of Parliament, as well as those of government departments and the Parliamentary Centre for Foreign Affairs and Foreign Trade, were directed to the facilitation of the work of the Committee.

3. Participation by Governments, Groups and Individuals

9. The Minister of Justice and 110 groups and individuals were invited to appear as witnesses. The groups represented a broad cross section of Canadian society. Furthermore, as of February 2, 1981, 914 individuals and 294 groups had sent letters, telegrams and briefs to the Committee. A list of those who were invited to give evidence as witnesses is attached as Appendix B. A list of those who had, as of February 2, made written submissions to the Committee is attached as Appendix C.

II. Summary of the Evidence

10. The resolution referred to the Committee would, by means of a joint address of the Senate and the House of Commons to Her Majesty the Queen, invite the Parliament of the United Kingdom to enact the Canada Act, which contains, in Schedule B, the ~~the~~ Constitution Act, 1981. The Constitution Act, 1981 contains provisions that would ''patriate'' the Canadian Constitution with an amending

formula, entrench a Charter of Rights and Freedoms, and enshrine the principle of equalization.

11. Most of the witnesses heard by the Committee expressed views on the proposed Charter of rights and freedoms. Some witnesses opposed in principle the entrenchment of rights and their inclusion in the Canadian Constitution. The majority, however, favoured entrenched rights and suggested amendments to the proposed Charter to make it a more effective instrument for the protection of rights and freedoms in Canada.

12. The Chief Commissioner of the Canadian Human Rights Commission supported the principle of an entrenched Charter of rights but found the original version flawed. He insisted that the wording of the original limitations section in clause 1, and the equal rights provisions in clause 15(1) be strengthened.

13. Representatives of the National Action Committee on the Status of Women and the Canadian Advisory Council on the Status of Women supported an entrenched Charter of Rights and recommended that women must have equality before, in and under the law.

14. The Canadian Jewish Congress wanted an entrenched charter of rights ''both as a symbolic and substantive affirmation of our rights as well as an appropriate remedy to secure them'', but felt that some sections needed to be drafted more clearly.

15. The Canadian Civil Liberties Association was emphatic about the need to change the limitations built into clause 1, the legal rights clauses and the original clause 26 which concerned the admissibility of evidence.

16. Francophone groups outside Quebec, and the anglophone and Italian communities of Quebec, as well as the German, Japanese, Black, Polish, Afro-Asian and Ukrainian associations, wanted an entrenched charter. All these groups recognized the need to respect the bilingual nature of Canadian society.

17. The President of ''La Fédération des Francophones hors Québec'' said the language rights included in the Charter do not go far enough, deploring the fact that Section 133 of the British North America Act had not been extended to Ontario or New Brunswick. On the other hand, she supported the principle of guaranteeing minority language education rights across the country.

18. The multicultural groups were particularly concerned that the draft of the Charter did not adequately address itself to the reality of Canada's cultural diversity.

19. Groups representing disabled persons and children, as well as churches, spoke in favour of an entrenched Charter but asked that the Charter be extended to include the protection and respect of their rights.

20. The Indian, Métis, and Inuit groups were adamant that aboriginal and treaty rights must be entrenched.

21. There was general agreement that patriation of the Constitution is desirable and that mechanisms for amending the Constitution be provided. Some concern was expressed about the provision for referenda. Some witnesses were oppcsed in principle to the referendum procedure;

others viewed it as a deadlock-breaking mechanism but objected to Parliament holding the exclusive right to initiate the process.

22. The premiers of Saskatchewan, Nova Scotia and Prince Edward Island opposed the unilateral course of action principally on the ground that provincial consent should be sought before calling upon Westminster to modify substantive parts of the constitution.

23. The Premier of New Brunswick, however, fully supported the process adopted by the federal government since, he said, there had been sufficient opportunities for the provinces to agree with each other on constitutional reform but time had come to move ahead.

24. The five expert witnesses who were invited to appear before the Committee did not agree with each other about the validity of the proposed procedure.

25. Professor Gil Rémillard, Professor of Law at Laval University, Professor Peter Russell, Professor of Political Science at the University of Toronto and the Most Reverend Edward W. Scott, Primate of the Anglican Church of Canada objected to the unilateral nature of the federal initiative.

26. On the other hand, Professor Maxwell Cohen, Emeritus Professor of Law, McGill University and Scholar in Residence at the University of Ottawa, and Mr. Gérard LaForest, Professor of Law at the University of Ottawa, had no doubts about Parliament's power to adopt such a Resolution.

27. The Research Branch of the Library of Parliament prepared a statistical account of the 962 briefs,

letters and telegrams sent to the Committee prior to December 31, 1980, the last date for the receipt of such submissions. Specific comments on the proposed Resolution as a whole, on any of the major issues raised thereby or on any clauses contained therein, were categorized in tabular form ~~therein~~. This account is set out as Appendix D.

III. Response to Submissions and Evidence

28. After carefully considering the evidence of the witnesses and the written submissions, on January 12, 1981, the Minister of Justice, on behalf of the government, presented to the Committee a consolidation containing a number of suggested amendments to the proposed Resolution. The Progressive Conservative and New Democratic Parties thereupon responded with amendments both to the original resolution and to the consolidation. The government proposed 58 amendments of which 58 were approved; the Progressive Conservative Party proposed 22 amendments of which 7 were approved; and the New Democratic Party proposed 43 amendments of which 2 were approved.

29. The amendments approved by the Committee provided a clearer definition of the principle of equalization and guaranteed that the referendum procedure would be used only as a deadlock-breaking mechanism.

30. Several sections of the proposed Charter were redrafted, in accordance with recommendations of many witnesses, in order to ensure the protection of rights and freedoms.

31. A new Part II, clause 31, was added to the Constitution Act, 1981. It would recognize and affirm both

aboriginal and treaty rights. It was agreed to unanimously by the Committee.

32. Also a new Part VII was added to the Proposed Resolution. It would amend the Constitution Act, 1867, in order to strengthen the authority of provincial governments to make laws with respect to non-renewable natural resources, forestry resources and electrical energy. Under the amendment, provincial powers with respect to exploration, development, conservation and management of those specified resources would be clarified. Also the provinces would be given concurrent jurisdiction in interprovincial trade in those resources with federal paramountcy as well as the authority to raise revenue by ''any mode or system of taxation'' with respect to those resources.

IV. Recommendation

33. Your Committee has considered the document entitled ''Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada'' published by the Government on October 2, 1980 and, in particular, has considered (a) what amendments were necessary to the Address contained in the document, and (b) whether or not the Address as amended by the Committee should be presented on behalf of both Houses of Parliament to Her Majesty the Queen.

34. Your Committee recommends that the Government propose to the Senate and House of Commons for adoption a Resolution for an Address to Her Majesty the Queen Respecting the Constitution of Canada, and that such Resolution be the ''Proposed Resolution for a Joint Address

to Her Majesty the Queen Respecting the Constitution of Canada'' published by the Covernment on October 2, 1980, as amended and approved by this Committee; and that, upon its adoption by the Senate and House of Commons, the Address be presented to Her Majesty the Queen.

Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada, as amended by the Committee

List of Appendices

Appendix A - Orders of Reference

Appendix B - List of Witnesses

Appendix C - Written Submissions

Appendix D - Statistical Account of
Written Submissions

(Insert here the full text of all Appendices)

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Respectfully submitted,

HARRY HAYS
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HARRY HAYS
SERGE JOYAL
Joint Chairmen.