

A New Drafting History of the *Canadian Charter of Rights and Freedoms*: The 1980-1982 Drafting Period

Appendices—A Clause by Clause Progression of the *Charter of Rights and Freedoms*

Tables compiled by Michael J. Scott

Appendix 1: English version, Drafting History of Section 1¹

KNOWN DRAFT [July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft](#)

(Multiple Categories of Limits)

Fundamental Freedoms: The manifestation or exercise of the freedoms declared by this section may be made subject only to such limitations prescribed by law as are reasonably justifiable in a free and democratic society in the interests of national security, public safety, order, health or morals or the rights and freedoms of others.

Legal Rights: (3) In time of serious public emergency threatening the life of the country, the existence of which is officially proclaimed by or pursuant to a law enacted to deal with such circumstances or by law a law specifically referring to this subsection, the rights mentioned in this section other than the right to life and those mentioned in subparagraphs (1)(d)(i) and (ii) and (1)(e)(i)-(iii) and (v) and paragraphs (1)(f)(g)(h)(i) and (j) may be derogated from to the extent strictly required by the circumstances of the emergency.

(4) Nothing in this section precludes the enactment of or renders invalid a law that authorizes the holding of all or part of a proceeding in camera in the interests of national security, public order or morality or in the interest of the protection of privacy of one or more of the parties or where publicity would prejudice the public interest.

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

Property Rights: The rights declared by this section may be made subject only to such limitations prescribed by law in addition to those referred to in subsection (2) as are reasonably justifiable in

¹ The formatting for section 1 differs from the other sections. It is our hope, in time, to render all other constitutional sections like this—to clarify the change in a brief summary, followed by the wording.

a free and democratic society in the interests of national security or public safety, order, health or morals.

NEW DRAFT [July 16, 1980: Revised Discussion Draft with Memo re Section 1](#)

(Single Limits Clause Proposals—Alternative A used in draft)

“Alternative A

1. The Canadian Charter of Rights and Freedoms guarantees the fundamental rights and freedoms of individuals in Canada in accord with the principles of a free and democratic society [under the rule of law].

Alternative B

1. The Canadian Charter of Rights and Freedoms guarantees the fundamental rights and freedoms of individuals in Canada subject only to such reasonable limits as are generally recognized in our free and democratic society.

NEW DRAFT [August 5, 1980: Revised Discussion Draft with Memo](#)

(Federal Draft and proposal if provinces not in favour of first version—removal of “rule of law” and replaced with “reasonable limits as are generally accepted in a free and democratic society”)

1. The Canadian Charter of Rights and Freedoms recognizes the following fundamental rights and freedoms of everyone consistent with the principles of a free and democratic society under the rule of law. (Draft version)

“The Canadian Charter of Rights and Freedoms recognizes the following fundamental rights and freedoms of everyone subject only to such reasonable limits as are generally accepted in a free and democratic society.” (Memo proposal)

NEW DRAFT [August 8, 1980: Formalities to Bill: Joint Resolution](#)

(Continues previous wording, but ‘Charter’ portion is placed further down in the Bill)

95.8 The Canadian Charter of Rights and Freedoms recognizes the following fundamental rights and freedoms of everyone consistent with the principles of a free and democratic society under the rule of law.

KNOWN DRAFT [August 22, 1980: Discussion Draft \(Federal\)](#)

(Seen as foundational draft by Elliot and others. “Under rule of law” is formally replaced)

1. The Canadian Charter of Rights and Freedoms recognizes the following rights and freedoms subject only to such reasonable limits as are generally accepted in a free and democratic society.

KNOWN DRAFT [August 28, 1980: Provincial Proposal \(In the event that there is going to be entrenchment\)](#)

(Provinces change “democratic society” to the more specific “parliamentary democracy”)

1. The Canadian Charter of Rights and Freedoms recognizes the following rights and freedoms subject only to such reasonable limits as are generally accepted in a free society living under a parliamentary democracy.

KNOWN DRAFT [September 3, 1980: Revised Discussion Draft](#)

(“Parliamentary system of government” is added)

1. The Canadian Charter of Rights and Freedoms recognizes the following rights and freedoms subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government.

NEW DRAFT [September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada](#)

(The word “recognize” is strengthened with the word “guarantees”)

1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government.

NEW DRAFT [October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes \[Draft, Version1\]](#)

(Same as previous. These are all drafts of the same Resolution and Section 1 is unchanged during this time and is introduced to Parliament as such)

NEW DRAFT [October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes \[Draft, Version 2\]](#)

(Same as previous. These are all drafts of the same Resolution and Section 1 is unchanged during this time and is introduced to Parliament as such)

KNOWN DRAFT [October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada](#)

(Same as previous. These are all drafts of the same Resolution and Section 1 is unchanged during this time and is introduced to Parliament as such)

NEW DRAFT [November 10, 1980: Amendments to Proposed Resolution](#)

(Suggestion to more stringent test)

[Change]

“...subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government”

[to]

“...subject only to such limits as are reasonably justifiable in a free and democratic society.”

NEW DRAFT [November 14, 1980: Memo from E.I. MacDonald to Deputy Minister \[Amendments\]](#)

(reasonably justifiable)

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits as are reasonably justifiable in a free and democratic society (with a parliamentary system of government.)^[no]

NEW DRAFT [November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada](#)

(Three alternatives)

- “...subject only to such limits prescribed by law as are reasonably justifiable in a free and democratic society with a parliamentary system of government.”
- “...subject only to such reasonable limits prescribed by law as are demonstrably justifiable in a free and democratic society with a parliamentary system of government.
- “...subject only to such limits prescribed by law as are reasonably justifiable (demonstrably justifiable) in a free and democratic society.”

Draft itself (demonstrably added)

“1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to subject reasonable² limits as are ^[demonstrably] reasonably justifiable³ in a free and democratic society with a parliamentary system of government.⁴

NEW DRAFT [November 20, 1980: Annex \[No Title\] Draft](#)

(established by law added and demonstrably is now added. The term “parliamentary system of government” has been removed entirely.)

“1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits established by law as are demonstrably justifiable in a free and democratic society.”

NEW DRAFT [November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft](#)

(less onerous version suggested underneath same clause as Nov. 20th)

[My recommendation is “subject only to such limits prescribed by law as are reasonably justifiable in a free + democratic society.”]

[NEW DRAFT \(M\) November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada:](#)

(Three alternatives)

- “...subject only to such limits established by law as are reasonably justifiable in a free and democratic society with a parliamentary system of government.”
- “...subject only to such reasonable limits established by law as are demonstrably justifiable in a free and democratic society with a parliamentary system of government.
- “...subject only to such limits established by law as are reasonably justifiable (demonstrably justifiable) in a free and democratic society.”

² The word “reasonable” has square brackets and is underlined in pen.

³ The word “demonstrably” is added in the column. A separate question mark is also there. This may be in regards to the word “reasonable,” which is also underlined (*supra* footnote 3).

⁴ “with a parliamentary system of government” is underlined and there appears to be a ? for it as well.

(The comment is found alongside the proposed draft: “‘Prescribed’ is int’l word. Why change it? Tarnopolsky”):

“...subject only to such reasonable limits ~~established~~ by law as are demonstrably justifiable in a free and democratic society.”

NEW DRAFT [November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada](#)

(*Prescribed by law added. Established by law removed.*)

“1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits ~~established~~ ^(prescribed) by law as are demonstrably justifiable in a free and democratic society.”

NEW DRAFT (M) [November 25, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada, Version 1:](#)

(*Three alternatives*)

- “...subject only to such limits established by law as are reasonably justifiable in a free and democratic society with a parliamentary system of government.”
- “...subject only to such reasonable limits established by law as are demonstrably justifiable in a free and democratic society with a parliamentary system of government.
- “...subject only to such reasonable limits established by law as are demonstrably justifiable in a free and democratic society.”

Recommendation: “...subject only to such reasonable limits established by law as are demonstrably justifiable in a free and democratic society.”

NEW DRAFT (M) [November 25, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada, Version 2:](#)

- “...subject only to such limits prescribed by law as are reasonably justifiable in a free and democratic society with a parliamentary system of government.”

- "...subject only to such reasonable limits prescribed by law as are demonstrably justifiable in a free and democratic society with a parliamentary system of government.
- "...subject only to such reasonable limits prescribed by law as are demonstrably justifiable in a free and democratic society."

Recommendation: "...subject only to such reasonable limits prescribed by law as are demonstrably justifiable in a free and democratic society."

NEW DRAFT [November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada](#)

(prescribed by law is now part of it)

"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 are demonstrably justifiable in a free and democratic society."

NEW DRAFT [December 11, 1980: Draft, Memorandum re Possible Amendments to Proposed Resolution on Constitution of Canada](#)

(suggestion: add "justified", also suggests "a free and democratic pluralistic society.")

"...“limitations clause” might better read: “subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”, rather than “subject only to such reasonable limits prescribed by law as are demonstrably justifiable in a free and democratic society.”

NEW DRAFT [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)

(repeats suggestion and discusses "manifestly")

"...it has been suggested...drawing from the French.... “manifestly justifiable” might be stronger than “demonstrably justifiable”. On consideration, it would appear that demonstrably is likely a stronger term since it implies the necessity of showing that the limit is justified whereas manifestly leaves the issue to judicial inference."

NEW DRAFT [December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada \[Version 1\]](#)

(Same as Nov. 25th version)

NEW DRAFT [December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada \[Version 2\]](#)

(Same as Nov. 25th version)

NEW DRAFT [December 12, 1980: Draft \[No Title\]](#)

(Same as Nov. 25th version)

December 18, 1980: Proposed Resolution: Matters Outstanding

(Not a draft, but says “Wording of clause in terms of impact on emergency measures to be discussed with Robertson (Gibson).”)

NEW DRAFT [December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada](#)

(final wording incorporated — note that democratic is misspelled)

“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 ~~are~~ ^[can be] demonstrably justifiable ^[ed] in a free and deomocratic [*sic*] society.

KNOWN DRAFT [January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien](#)⁵

(Same as Dec. 19. Formally presented to SJC)

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.

⁵ See also [January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution](#).

NEW DRAFT [January 15, 1981: Note on Section 1 Limitation Clause in Charter](#): This document explains the wording chosen for Section 1.

Appendix 2: French version, Drafting History of Section 1

KNOWN DRAFT July 4, 1980: [Comité Permanent des Ministres sur la Constitution, Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail](#)

Libertés fondamentales: (2) L'exercice des libertés reconnues par le présent article ne peut être limité que dans une mesure, précisée par la loi, qui est raisonnablement justifiable, dans une société libre et démocratique, par la sécurité nationale, la santé, la sécurité, l'ordre et la moralité publics et par l'exercice des droits et libertés individuels.

Droits personnels: (3) En cas de situation d'urgence grave menaçant la survivance du Canada, constatée officiellement par une loi adoptée pour en traiter ou par une loi référant de manière explicite au présent paragraphe, les droits énoncés dans le présent article, à l'exception du droit à la vie et des droits visés aux sous-alinéas (1) (d) (i) et (ii) et (1) (e) (i) – (iii) et (v) et aux alinéas (1) (f), (g), (h), (i) et (j) peuvent être limités dans la mesure rendue strictement nécessaire par les circonstances.

(4) Les dispositions du présent article n'ont pas pour effet d'interdire l'adoption d'une loi ou d'invalider une loi autorisant le huis clos, pour la totalité ou une partie des procédures, pour des raisons de sécurité nationale d'ordre ou de moralité publics ou de protection de la vie privée d'une ou de plusieurs parties ou autorisant le huis clos dans les cas où la publicité serait contraire à l'intérêt public.

Liberté de mouvement et droit d'établissement: (3) Les droits prévus par le présent article ne peuvent être limités que dans une mesure, prescrite par la loi, qui est raisonnablement justifiable, dans une société libre et démocratique, par la sécurité nationale ou par la santé, la sécurité, l'ordre et la moralité publics.

Droit de jouissance de ses biens: (3) Les droits prévus par le présent article ne peuvent être limités, outre les cas prévus par le paragraphe (2), que dans une mesure, prescrite par la loi, qui est raisonnablement justifiable, dans une société libre et démocratique, par des raisons de sécurité nationale, ou de santé, de sécurité d'ordre ou de moralité publics.

NEW DRAFT [July 16, 1980: Revised Discussion Draft with Memo re Section 1](#)

(English only found so far)

NEW DRAFT [August 5, 1980: Revised Discussion Draft with Memo](#)

(English only found so far)

NEW DRAFT [August 8, 1980: Formalities to Bill: Joint Resolution](#)

(English only found so far)

KNOWN DRAFT [August 22, 1980: Discussion Draft \(Federal\)](#)

(English only found so far)

KNOWN DRAFT [August 28, 1980: Provincial Proposal \(In the event that there is going to be entrenchment\)](#)

(English only found so far)

KNOWN DRAFT [September 3, 1980 : Conference Fédérale-Provinciale des Premiers Ministres, Document de Travail, Charte Canadienne des Droits et Libertés](#)

1. La Charte canadienne des droits et libertés reconnaît les droits et libertés énoncés ci-après, sous les seules réserves raisonnables généralement acceptées dans une société libre et démocratique régie par un système de gouvernement parlementaire.

NEW DRAFT [September 24, 1980: Résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada](#)

(French version also strengthens wording with “garantit” over “reconnait”. However, in the French version “raisonnables généralement” is replaced with “normalement”)

1. La Charte canadienne des droits et libertés garantit les droits et libertés énoncés ci-après, sous les seules réserves normalement acceptées dans une société libre et démocratique de régime parlementaire.

NEW DRAFT [October 2, 1980: Projet de résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada \[Version 1\]](#)

(Same)

NEW DRAFT [October 2, 1980: Projet de résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada \[Version 2\]](#)

(Same)

KNOWN DRAFT [October 2, 1980: Projet de résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada](#)

(Same)

NEW DRAFT [November 14, 1980: Memo from E.I. MacDonald to Deputy Minister \[Amendments\]](#)

(English only)

NEW DRAFT [November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada](#)

(English only)

NEW DRAFT [November 20, 1980: Annex \[No Title\] Draft](#)

(“que justifie la raison” replaces “normalement acceptées”)

“1. La Charte Canadienne des droits et libertés garantit les droits et libertés énoncés ci-après, sous les seules réserves que justifie la raison dans une société libre et démocratique de régime parlementaire.”

NEW DRAFT [November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft](#)

(It is the same as the previous, but the words “de régime parlementaire” are scratched out with the words “not accurate” in the column, indicating, like the English version of Nov. 20, that language indicating a parliamentary system has been removed)

La Charte canadienne des droits et libertés garantit les droits et libertés énoncés ci-après, sous les seules réserves que justifie la raison dans une société libre et démocratique ~~de régime parlementaire~~. [not accurate]

NEW DRAFT [November 24, 1980: Annexes du Mémoire au Cabinet du Ministre de la Justice daté du novembre 1980 concernant la possibilité d'apporter des modifications au Projet de résolution concernant la Constitution du Canada](#)

(The second sentence is almost entirely changed. Added is the term “ils ne peuvent être restreints que par la loi”. The French term “limites raisonnables” now matches the English. Finally the term, “manifestement justifiable” is seen for the first time.)

“1. La Charte canadienne des droits et libertés garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par la loi, et ce dans des limites raisonnables et manifestement justifiables dans une société libre et démocratique.”

NEW DRAFT [November 25, 1980: Annexes du Mémoire aux Ministres du Ministre de la Justice daté du 25 novembre 1980 sur d'éventuelles modifications au Projet de résolution concernant la Constitution du Canada](#)

(The term “par la loi” is strengthened/clarified with “par une règle de droit” and is also further clarified with the expression “seulement” which precedes “dans des limites raisonnables”)

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 et seulement dans des limites raisonnables et manifestement justifiables dans une société libre et démocratique.”

NEW DRAFT [December 12, 1980: Annexes du Mémoire aux Ministres du Ministre de la Justice daté le 12 décembre 1980 sur d'éventuelles modifications au Projet de résolution concernant la Constitution du Canada \[Version 1\]](#)

(Same)

NEW DRAFT [December 12, 1980: Annexes du Mémoire aux Ministres du Ministre de la Justice daté du 12 décembre 1980 sur d'éventuelles modifications au Projet de résolution concernant la Constitution du Canada](#)

(Same)

NEW DRAFT [December 12, 1980: Draft \[No Title\]](#)

(English only)

NEW DRAFT (D) [December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada](#)

(English only)

NEW DRAFT [December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire](#)

(The recent term “seulement” is removed, broadening the clause again. The word “manifestement” is removed, perhaps in response to the Dec. 12 memo, which discussed possibly changing the English version to “manifestly” to match the French, but declining to because the term left too much to judicial inference.)

“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 pour une société libre et démocratique et dont la justification soit démontrable.”

KNOWN DRAFT (D) [January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien](#)

(The wording is re-arranged. "...une société libre et démocratique et dont la justification soit démontrable", located at the end of the clause is changed to "dont justification puisse se démontrer dans le cadre d'une société libre et démocratique.")

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.

January 13-Dec. 2, 1981: Unchanged

Further Reading—Discussions Surrounding Clause:

- [October 7, 1980: Briefing Note: Effect of Charter on Application of War Measures Act:](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Appendix 3: Charter Progression Tables — Sections 2-33, 35, 52(1), Property Rights, and the Preamble

Section 2: Fundamental Freedoms

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>2. (1) Everyone has the right to the following fundamental freedom:</p> <p>a) freedom of conscience and religion;</p> <p>b) freedom of thought, belief, opinion and expression, including freedom in the dissemination of news, opinion and belief; and</p> <p>c) freedom of peaceful assembly and association.</p> <p>2. (1) Toute personne jouit des libertés fondamentales suivantes:</p> <p>(a) liberté de conscience et liberté de religion;</p> <p>(b) liberté de pensée, d’opinion et d’expression, notamment liberté de diffusion des nouvelles et d’expression d’opinions; et</p> <p>(c) liberté d’association et de réunion pacifique.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>Fundamental Freedoms</p> <p>2. Everyone has the following fundamental freedoms:</p> <p>(a) freedom of conscience and religion;</p> <p>(b) freedom of thought, opinion and expression, including freedom in the dissemination of news, opinion and belief; and</p>

		(c) freedom of peaceful assembly and of association.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	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; and (c) freedom of peaceful assembly and of association.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Returns to wording from July 16 th draft
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	(a) freedom of religion; (b) freedom of thought, belief, opinion, and expression, including freedom of the press and other media; and (c) freedom of peaceful assembly and of association.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft</u> <u>French Version</u>	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; and (c) freedom of peaceful assembly and of association. 2. Toute personne jouit des libertés fondamentales suivantes: a) liberté de conscience et de religion; b) liberté de pensée, de

		<p>croyance, d’opinion et d’expression, notamment liberté de la presse et des autres media; c) liberté d’association et de réunion pacifique.</p>
September 24, 1980	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>Same as Sept. 3</p> <p>French</p> <p>2. Chacun a les libertés fondamentales suivantes :</p> <p>a) same</p> <p>b) liberté de pensée, de croyance, d’opinion et d’expression, notamment liberté de la presse et des autres media;</p> <p>c) liberté de réunion pacifique et d’association.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>(b) freedom of thought, belief, opinion and expression, including freedom of the press and other communications media^[*]; and</p> <p><i>[* of information]</i></p> <p>b) liberté de pensée, de croyance, d’opinion et d’expression, y compris la liberté de la presse et des autres grands moyens d’information;</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of information; and</p>
Oct. 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen</u></p>	<p>Unchanged from Version 2:</p>

	<p><u>respecting the Constitution of Canada</u></p>	<p>2. Everyone has the following fundamental freedoms:</p> <p>(a) freedom of conscience and religion;</p> <p>(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of information; and</p> <p>(c) freedom of peaceful assembly and association.</p> <p>2. Chacun a les libertés fondamentales suivantes :</p> <p>a) liberté de conscience et de religion;</p> <p>b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté de la presse et des autres grands moyens d'information;</p> <p>c) liberté de réunion pacifique et d'association.</p>
<p>Nov. 12, 1980</p>	<p><u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u></p>	<p>Drop "positif" from the French version.</p>
<p>Dec. 5, 1980</p>	<p><u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of mass communication⁶; and</p> <p>b) liberté de pensée, de croyance, d'opinion d'expression, y compris la liberté de la presse et</p>

⁶ This is how the wording would be finalized eventually, but after this draft "media of communication" would revert back to "media of information". Eventually, it would go back to this wording.

		des autres moyens d'information;
Dec. 12, 1980	<u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u> (Version 1, Version 2 has English only)	(c) freedom of peaceful assembly; and (d) freedom of association c) liberté de réunion pacifique; d) liberté d'association
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	(c) becomes “media of information” again.
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Discusses separating “peaceful assembly” and “association”. Annex 2 not available.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Same as Dec. 12. (FULL DRAFT)
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	Same as Dec. 12 ⁷
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	“grands” readded in French
Jan. 12	<u>January 12, 1981: Version formally presented to Special</u>	Same as Briefing book

⁷ The word “grands” is there, but crossed out.

	<p><u>Joint Committee by Jean Chretien:</u></p>	
<p>Feb. 13</p>	<p><u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u></p>	<p>Final wording:</p> <p>2 Everyone has the following fundamental freedoms:</p> <p>(a) freedom of conscience and religion;</p> <p>(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;</p> <p>(c) freedom of peaceful assembly; and</p> <p>(d) freedom of association.</p> <p>2 Chacun a les libertés fondamentales suivantes :</p> <p>a) liberté de conscience et de religion;</p> <p>b) liberté de pensée, de croyance, d’opinion et d’expression, y compris la liberté de la presse et des autres moyens de communication;</p> <p>c) liberté de réunion pacifique;</p> <p>d) liberté d’association.</p>

Further Reading—Discussions Surrounding Clause:

- [November 28, 1980: Memorandum from Assistant Deputy Minister \(Public Law\) to Minister of Justice re Newfoundland Denominational Schools and Proposed Constitutional Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Addendum to Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)

- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 3: Democratic Rights

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>3. Consistent with the principles of free and democratic elections to the House of Commons and to the legislative assemblies, and of universal suffrage for that purpose, every citizen of Canada shall, without unreasonable distinction or limitation, have 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.</p> <p>3. Vu le principe d'élections libres et démocratiques des députés & la Chambre des communes et aux assemblées législatives par suffrage universel, tout citoyen canadien a le droit de voter aux élections des députés de la Chambre des communes ou des assemblées législatives et d'y porter sa candidature; ce droit ne peut être limité sans raison valable.</p>
<p>July 16, 1980</p>	<p>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</p>	<p>3. Every citizen of Canada has, without unreasonable distinction or limitation, 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.</p>
<p>August 5, 1980</p>	<p>August 5, 1980: Revised Discussion Draft with Memo:</p>	<p>Unchanged</p>
<p>August 8, 1980</p>	<p>August 8, 1980: Formalities to Bill: Joint Resolution</p>	<p>Unchanged</p>

August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	Unchanged
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft</u> <u>French Version</u>	3. English unchanged. 3. Tout citoyen canadien a le droit de voter aux élections en vue de la désignation des députés de la Chambre des communes ou des assemblées législatives et d’y poser sa candidature; ce droit ne peut sans raison valable, faire l’objet d’une distinction ou d’une restriction.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	English unchanged. French: 3. Tout citoyen canadien a le droit de vote et est éligible aux élections législatives fédérales ou provinciales; ce droit ne peut, sans motif valable, faire l’objet d’aucune distinction ou restriction.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 1]:</u>	-
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	-
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	English unchanged from July 16: 3. Every citizen of Canada has, without unreasonable distinction or limitation, the right to vote in an election of

		<p>members of the House of Commons or of a legislative assembly and to be qualified for membership therein.</p> <p>French unchanged from Sep. 24:</p> <p>3. Tout citoyen canadien a le droit de vote et est éligible aux élections législatives fédérales ou provinciales; ce droit ne peut, sans motif valable, faire l'objet d'aucune distinction ou restriction.</p>
Nov. 12, 1980	<u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u>	"ce droit ne peut" becomes "ces droits ne peuvent"
Nov. 14, 1980	<u>November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:</u>	3. Tout citoyen canadien a le droit de vote et est éligible aux élections législatives fédérales ou provinciales; <u>ces droits ne peuvent</u> , sans motif valable, faire l'objet d'aucune distinction ou restriction.
Nov. 17, 1980	<u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u>	French only in draft. Same as Nov. 14.
Nov. 20, 1980	<u>November 20, 1980: Loose Drafts:</u>	French only in draft. Same as Nov. 14.
Nov. 21, 1980	<u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u>	French only in draft. Same as Nov. 14.
Nov. 24, 1980	<u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated</u>	French only listed in draft. Same as Nov. 14.

	<u>November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Same.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	No change from Oct. 2 (English)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	No change from Oct. 2 (English)
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	Same as Nov. 14
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	English Same as Oct. 2 French same as Nov. 14
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	English Same as Oct. 2 French same as Nov. 14
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	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. 3 Tout citoyen canadien a le droit de vote et est éligible aux

		élections législatives fédérales ou provinciales.
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Further Reading—Discussions Surrounding Clause:

- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 2](#)]
- [December 15, 1980: Addendum to Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 4: Duration of Legislative Bodies

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>4. (1) No House of Commons and no legislative assembly of a province shall continue for longer than five years from the date of the return of the writs for the choosing of its members.</p> <p>(2) Notwithstanding subsection (1), in time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly of a province may be continued by the legislature thereof beyond the time limited therefor by or under subsection (1), 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.</p> <p>4. (1) La durée maximum de la Chambre des communes du Canada et des assemblées législatives provinciales est de</p>
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		<p>cinq ans à compter de la date du rapport du bref d'élections.</p> <p>(2) Par dérogation au paragraphe (1), le Parlement peut proroger la Chambre des communes et un corps législatif provincial peut proroger l'assemblée législative provinciale au-delà de la durée prévue à ce paragraphe, en cas de guerre, d'invasion ou d'insurrection, réelles ou appréhendées, pourvu que cette prorogation ne fasse pas l'objet d'une opposition exprimée par les votes de plus du tiers des députés de la Chambre des communes ou de l'assemblée législative, selon le cas.</p>
July 16, 1980	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date of the return of the writs for the choosing of its members.</p> <p>(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 the period of 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.</p>
August 5, 1980	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	Unchanged
August 8, 1980	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	Unchanged

<p>August 22, 1980</p>	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	<p>4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date of the return of the writs for the election of its members.</p> <p>(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 the period of 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.</p>
<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>Unchanged</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft French Version</u></p>	<p>English unchanged.</p> <p>4. (1) La durée maximale de la législature de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date du rapport du bref d'élections.</p> <p>(2) La législature de la Chambre des communes ou celle d'une assemblée législative peut être prorogée 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 prorogation ne fasse pas l'objet d'une opposition exprimée par les votes de plus du tiers des</p>

		<p>députés de la Chambre des communes ou de l'assemblée législative, selon le cas.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>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.</p> <p>(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.</p> <p>4. (1) Le mandat maximal de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date du rapport des brefs relatifs aux élections générales correspondantes.</p> <p>(2) Le mandat de la Chambre des communes ou celui d'une assemblée législative peut être prorogé 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</p>

		communes ou de l'assemblée législative.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	-
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	-
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	<p>English unchanged from Sep. 24:</p> <p>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.</p> <p>(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.⁸</p> <p>French also unchanged except the word "prolongé" in 4(2).</p>

⁸ English Section would remain unchanged throughout the whole process and would be enacted into law as such.

		<p>However, “prorogé” in Sep. 24 was probably a typo:</p> <p>4. (1) Le mandat maximal de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date du rapport des brefs relatifs aux élections générales correspondantes.</p> <p>(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.</p>
<p>Nov. 12, 1980</p>	<p><u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u></p>	<p>Change "rapport des brefs" to "renvoi des brefs" in line 23 of the French version.</p>
<p>Nov. 17, 1980</p>	<p><u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u></p>	<p>French only in draft.</p> <p>4.(1) Le mandat maximal de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date <u>fixée pour le retour</u> des brefs relatifs aux élections générales correspondantes.</p> <p>(2) Le mandat de la Chambre des communes ou celui d’une assemblée législative peut être</p>

		prolongée respectivement par le Parlement ou par la législature en question au-delà de cinq ans en cas de guerre, d'invasion ou d'insurrection <u>ou dans l'appréhension de ces événements</u> 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.
Nov. 17, 1980	<u>November 17, 1980: Memo from E.I. Macdonald to Deputy Minister of Justice</u>	Same
Nov. 20, 1980	<u>November 20, 1980: Loose Drafts:</u>	French only. Same as Nov. 17.
Nov. 21, 1980	<u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u>	French only. Same as Nov. 17.
Nov. 24, 1980	<u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	French only. Same as Nov. 17. However, doesn't include (2)
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Same.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	No change from Oct. 2 (English)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed</u>	No change from Oct. 2 (English)

	<u>Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	<p>4.(1) Le mandat maximal de la Chambre des communes et des assemblées législatives est de cinq ans à compter de la date <u>fixée pour le retour</u> des brefs relatifs aux élections générales correspondantes.</p> <p>(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.</p>
Jan. 9	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	English Same as Oct. 2 (Final wording). French same as Dec. 30 (Final wording)
Jan. 12	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	Same—no change again to clause

Further Reading—Discussions Surrounding Clause:

- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 2](#)]
- [December 15, 1980: Addendum to Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 5: Annual Sitting of Legislative Bodies

July 4, 1980	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>5. There shall be a sitting of Parliament and of each legislature at least once every year and not more than twelve months shall intervene between sittings.</p> <p>5. Le Parlement du Canada et les corps législatifs provinciaux siègent au moins une fois l'an. Toute séance doit commencer au plus tard un an après la fin de la séance précédente.</p>
July 16, 1980	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	Unchanged
August 5, 1980	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	Unchanged.
August 8, 1980	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	Unchanged
August 22, 1980	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	Unchanged.
August 28, 1980	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	Unchanged.
September 3, 1980	<p><u>September 3, 1980: Revised Discussion Draft</u></p> <p><u>French Version</u></p>	<p>English unchanged.</p> <p>5. Le Parlement et les législatures siègent au moins une fois tous les douze mois.</p>
September 24, 1980	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>English unchanged.</p> <p>5. Le Parlement et les législatures tiennent une session au moins une fois tous les douze mois.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address</u></p>	<p>5. There shall be a sitting of Parliament and of each</p>

	<u>to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	legislature at least once every twelve months. 5. Le Parlement et les législatures tiennent une séance au moins une fois tous les douze mois.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Both unchanged and final wording. Same as Version 1: 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.

Further Reading—Discussions Surrounding Clause:

- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 6: Mobility Rights

July 4, 1980	<u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u> <u>French Version</u>	8. (1) Every citizen of Canada has the right to enter, remain in and leave Canada. (2) Every citizen of Canada and every person who has been lawfully admitted to Canada for permanent residence and has not
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		<p>lost the status of a permanent resident has the right</p> <p>a) to move and to take up residence in any province or territory, and</p> <p>b) to acquire and hold property in, and to pursue the gaining of livelihood in, any province or territory,</p> <p>subject to any laws of general application in force in that province or territory other than any such laws that discriminate among persons to whom this provision applies primarily on the basis of province or territory of present or previous residence or domicile.</p> <p>(3) The rights declared by this section may be made subject only to such limitations prescribed by law as are reasonably justifiable in a free and democratic society in the interests of national security, public safety, order, health or morals</p> <p>8. (1) Tout citoyen canadien a le droit de demeurer au Canada, d'aller à l'étranger et de revenir au Canada comme bon lui semble.</p> <p>(2) Tout citoyen canadien et toute personne légalement admise au Canada pour y établir sa résidence permanent à et qui conserve son statut de résident permanent a le droit, dans toute province ou territoire,</p>
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		<p>(a) de se déplacer à sa guise et d'établir sa résidence au lieu de son choix; et</p> <p>(b) d'acquérir des biens et d'assurer sa subsistance, sous réserve des lois d'application générale qui y sent en vigueur et qui n'établissent pas de distinction entre des personnes que vise la présente disposition, uniquement sur la base de leur province ou de leur territoire de résidence ou de domicile passés ou actuels.</p> <p>(3) Les droits prévus par le présent article ne peuvent être limités que dans une mesure, prescrite par la loi, qui est raisonnablement justifiable, dans une société libre et démocratique, par la sécurité nationale ou par la sante, la sécurité, l'ordre et la moralité publics.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>8. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.</p> <p>(2) Every citizen of Canada and every person who has the status of a permanent resident has the right</p> <p>(a) to move to and take up residence in any province or territory, and</p> <p>(b) to acquire and hold property in, and to pursue the gaining of a livelihood in, any province or territory,</p> <p>subject to any laws of general application in force in that</p>

		<p>province or territory other than any such laws that discriminate among persons to whom this provision applies primarily on the basis of province or territory of present or previous residence or domicile.</p>
<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>16. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.</p> <p>(2) Every citizen of Canada and every person who has the status of a permanent resident has the right</p> <p>(a) to move to and take up residence in any province; and</p> <p>(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.</p> <p>(3) The rights specified in subsection (2) are subject to any laws, rules or practices of general application in force in a province other than those that discriminate (unduly or unreasonably?) among persons primarily on the basis of province of present or previous residence or domicile.</p>
<p>August 8, 1980</p>	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	<p>Unchanged</p>
<p>August 22, 1980</p>	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	<p>16. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.</p> <p>(2) Every citizen of Canada and every person who has the status of a permanent resident has the right</p> <p>(a) to move to and take up residence in any province; and</p>

		<p>(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.</p> <p>(3) The rights specified in subsection (2) are subject to any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence.</p>
<p>August 27, 1980</p>	<p><u>August 27, 1980: Revised Discussion Draft on Mobility Rights:</u></p>	<p>16. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.</p> <p>(2) Everyone in Canada has the right</p> <p>(a) to move to and take up residence in any province; and</p> <p>(b) to acquire and hold property in, and pursue the gaining of a livelihood in, any province</p> <p>(3) The rights specified in subsection (2) are subject to</p> <p>(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</p> <p>(b) any other laws referred to in subsections (4) or (5) of section 121 of the British North America Act.</p>
<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>The Provinces (officials) suggested that the whole issue of Mobility Rights, if in the constitution, should be</p>

		elsewhere than in the Charter of Rights.
September 3, 1980	<p><u>September 3, 1980: Revised Discussion Draft</u></p> <p><u>French Version</u></p>	<p>English is same except small change to subsection 2(b)</p> <p>(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.</p> <p>14. (1) Tout citoyen canadien a le droit de demeurer dans le pays et d'en franchir les frontières.</p> <p>(2) Toute personne a, au Canada, le droit:</p> <p>a) de se déplacer et d'établir sa résidence dans toute province;</p> <p>b) d'acquérir des biens et de gagner sa vie dans toute province.</p> <p>(3) Les droits mentionnés au paragraphe (2) sont soumis:</p> <p>a) aux lois et usages d'application générale qui sont en vigueur dans la province s'ils n'établissent pas de distinction entre des personnes, fondée principalement sur leur province de résidence antérieure ou actuelle;</p> <p>b) aux autres lois visées aux paragraphes (4) et (5) de l'article 121 de <u>l'Acte de l'Amérique du Nord britannique.</u></p>
September 24, 1980	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.</p> <p>(2) Every citizen of Canada and every person who has the status</p>

		<p>of a permanent resident of Canada has the right</p> <p>(a) to move to and take up residence in any province; and</p> <p>(b) to pursue the gaining of a livelihood in any province.</p> <p>(3) The rights specified in subsection (2) are subject to</p> <p>(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</p> <p>(b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.</p> <p>6. (1) Tout citoyen canadien a le droit de demeurer dans le pays, d'en franchir les frontières</p> <p>(2) Tout citoyen canadien et toute personne ayant le statut de résident permanent au Canada ont le droit :</p> <p>a) de se déplacer dans tout le pays et d'établir leur résidence dans toute province;</p> <p>b) de gagner leur vie dans toute province.</p> <p>(3) Les droits mentionnés au paragraphe (2) sont subordonnés :</p>
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		<p>a) aux lois et usages d'application générale en vigueur dans la province, s'ils n'établissent entre les personnes aucune distinction fondée principalement sur leur province de résidence antérieure ou actuelle;</p> <p>b) aux lois prévoyant des justes conditions raisonnables de résidence en vue de l'obtention des services sociaux publics.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>English unchanged</p> <p>6. (1) Tout citoyen canadien a le droit de demeurer au Canada, d'y entrer ou d'en sortir.</p> <p>(2) Tout citoyen canadien et toute personne ayant le statut de résident permanent au Canada ont le droit :</p> <p>a) de se déplacer dans tout le pays et d'établir leur résidence dans toute province;</p> <p>b) de gagner leur vie dans toute province.</p> <p>(3) Les droits mentionnés au paragraphe (2) sont subordonnés :</p> <p>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;</p>

		<p><i>b)</i> aux lois prévoyant de justes conditions de résidence en vue de l'obtention des services sociaux publics</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Both unchanged</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>English unchanged from Sep. 24:</p> <p>6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.</p> <p>(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right</p> <p>(a) to move to and take up residence in any province; and</p> <p>(b) to pursue the gaining of a livelihood in any province.</p> <p>(3) The rights specified in subsection (2) are subject to</p> <p>(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</p> <p>(b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.</p>

		<p>French unchanged from Version 1:</p> <p>6. (1) Tout citoyen canadien a le droit de demeurer au Canada, d’y entrer ou d’en sortir.</p> <p>(2) Tout citoyen canadien et toute personne ayant le statut de résident permanent au Canada ont le droit :</p> <p><i>a)</i> de se déplacer dans tout le pays et d’établir leur résidence dans toute province;</p> <p><i>b)</i> de gagner leur vie dans toute province.</p> <p>(3) Les droits mentionnés au paragraphe (2) sont subordonnés :</p> <p><i>a)</i> 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;</p> <p><i>b)</i> aux lois prévoyant de justes conditions de résidence en vue de l’obtention des services sociaux publics</p>
<p>Nov. 10, 1980</p>	<p><u>November 10, 1980:</u> <u>Amendments to Proposed</u> <u>Resolution:</u></p>	<p>Limit clause: "in cases of overriding socio-economic considerations" or "in the interests of public order, safety, health or morals"?⁹</p>

⁹ The word “no” is written beside it.

Jan. 1981	<u>Briefing Book, SJC Committee</u>	No change
Feb. 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	No change
April 1981	<u>April 24, 1981: Consolidation of proposed constitutional resolution tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981:</u>	No change
Nov. 3, 1981	<u>November 3, 1981: Canada Act (B.C. Position):</u>	6. (c) Any laws [illegible] in a province while the unemployment rate in that province is above the national average rate of unemployment.
Nov. 4, 1981	<u>November 4, 1981: Draft Compromise</u>	2. ACCEPTANCE OF THE FULL CHARTER WITH TWO AMENDMENTS- [...] (B) AN AMENDMENT TO MOBILITY RIGHTS TO PERMIT A PROVINCE TO PURSUE AFFIRMATIVE ACTION PROGRAMS FOR JOB CREATION FOR ITS CITIZENS UNTIL THAT PROVINCE'S UNEMPLOYMENT RATE WAS NO GREATER THAN THE NATIONAL AVERAGE.
Nov. 4, 1981	<u>November 4, 1981: Canada Act (Saskatchewan Position)</u>	Suggested change to Section 6(2): Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right (a) to move to and take up residence in any province and to pursue the gaining of a livelihood in that province.

<p>Nov. 4, 1981</p>	<p><u>November 4, 1981: Jean Chretien, Roy Romanow, Roy McMurtry, The Kitchen Accord</u></p>	<p>“On the <u>all</u>, Nfld. wants a slight (?) change on <u>mobility</u></p> <p>-Affirmative Action – if a provs. Employment rate is below ntl. Average – they can [?discriminate?]</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Constitutional Proposal Submitted by the Government of Newfoundland at the First Ministers Conference:</u></p>	<p>(3) CHARTER OF RIGHTS & FREEDOMS</p> <p>- THE ENTRENCHMENT OF THE FULL CHARTER OF RIGHTS AND FREEDOMS NOW BEFORE PARLIAMENT WITH THE FOLLOWING CHANGES</p> <p>(A) WITH RESPECT TO MOBILITY RIGHTS THE INCLUSION OF THE RIGHT OF A PROVINCE TO UNDERTAKE AFFIRMATIVE ACTION PROGRAMS FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS AS LONG AS A PROVINCE'S UNEMPLOYMENT RATE AS ABOVE THE NATIONAL AVERAGE.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Proposal [No Title], Version 1, Copy 1:</u></p>	<p>(3) Charter of Rights & Freedoms</p> <p>- The entrenchment of the full Charter of Rights and Freedoms now</p>

		<p>before Parliament with the following changes:</p> <p>(a) With respect to Mobility Rights the inclusion of the right of a province to undertake affirmative action programs for socially and economically disadvantaged individuals as long as a province's unemployment rate was above the National average.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Proposal [No Title], Version 2 with Notes:</u></p>	<p>(3) Charter of Rights & Freedoms</p> <ul style="list-style-type: none"> - The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: <p>(a) With respect to Mobility Rights the inclusion of the right of a province to undertake affirmative action programs for socially and economically disadvantaged individuals as long as a province's ^[level of employment] unemployment rate was above ^[below] the National average.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Proposal [No Title], Version 3 with Notes [Missing Pages]:</u></p>	<p>(3) Charter of Rights & Freedoms</p> <ul style="list-style-type: none"> - The entrenchment of the full Charter of Rights

		<p>and Freedoms now before Parliament with the following changes:</p> <p>(a) With respect to Mobility Rights the inclusion of the right of a province to undertake affirmative action programs for socially and economically disadvantaged individuals as long as a province's ^[level of illegible] employment rate was below the National average.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Proposal [No Title], Version 4:</u></p>	<p>The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes:</p> <p>(a) With respect to Mobility Rights the inclusion of the right of a province to undertake affirmative action programs for socially and economically disadvantaged individuals as long as a province's employment rate was below the National average.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Working Draft, Consolidation of proposed constitutional resolutions tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981</u></p>	<p>Subsection 4 added:</p> <p>6 (4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.</p>

<p>Nov. 16, 1981</p>	<p><u>November 16, 1981: Telex from Roger Tassé re: Override of Section 28 in Section 33 of Charter and Wording of Mobility Rights Derogation under Section 6(4)</u></p>	<p>“With respect to Section 6(4)...we would propose...to leave the term “Rate of Employment” as found in November’s Working Draft. Statistics Canada has now advised that it is a more stable indicator of economic performance than “rate of unemployment”.</p>
<p>Nov. 18, 1981</p>	<p><u>November 18, 1981: Resolution Respecting Constitution Act:</u></p>	<p>French version: 4) Les paragraphes (2) et (3) n’ont pas pour objet d’interdire les lois, programmes ou activités destinés à améliorer, dans une province, la situation d’individus défavorisés socialement ou économiquement, si le taux d’emploi dans la province est inférieur à la moyenne nationale.</p>
<p>November 24, 1981</p>	<p><u>November 24, 1981: Resolution Respecting Constitution Act:</u></p>	<p>Unchanged</p>
<p>November 26, 1981</p>	<p><u>November 26, 1981: Resolution Respecting Constitution Act:</u></p>	<p>Unchanged</p>
<p>Dec. 2, 1981</p>	<p><u>December 2, 1981: Resolution Respecting Constitution Act, Voted and Passed by House of Commons:</u></p>	<p>Unchanged</p>

Further Reading—Discussions Surrounding Clause:

- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 26, 1981: Memorandum from Eddie Goldenberg to Michael Kirby](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)
- [October 31, 1981: Memorandum for Michael Kirby \[from Eddie Goldenberg\]](#)
- prob. November, 1981: [Cabinet Document: Preferred Options](#)
- [November, 1981: Possible Amendments for Quebec:](#)
- [November 4, 1981: Jean Chretien, Roy Romanow, Roy McMurtry, The Kitchen Accord](#)

- [November 6, 1981: Memorandum for the Prime Minister: Outlook following the Constitutional Agreement:](#)
- [November 9, 1981: Mémoire au Premier Ministre: Options Concernant les Trois Points de Desaccord avec le Quebec](#)
- [November 9, 1981: Rencontre avec Rene Dussault \(Roger Tassé\)](#)
- [November 9, 1981: Memorandum for Mr. Kirby, Quebec and the Constitutional Agreement \[from D.R. Cameron\]](#)
- [November 10, 1981: Memorandum for the Minister \(from Roger Tassé\) re: Propositions for Quebec](#)
- [November 11, 1981: Memo, Les Propositions Ryan](#)
- [November 12, 1981: Memo from the Deputy Minister to the Minister of Justice, Le Québec](#)
- [November 18, 1981: Letter from Claude Ryan to Prime Minister Trudeau](#)
- [November 26, 1981: Note de service à Monsieur Pierre de Bané de Lina Allard \[chef de cabinet de M. Claude Ryan\]](#)
- [December 1, 1981: Note au Premier Ministre de Pierre de Bané](#)

Section 7: Security of the Person

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>6. (1) Everyone has the right to life, liberty and security of his or her person and the right not to be deprived thereof except by due process of law, which process encompasses the following:</p> <p>[List of rights follows]</p> <p>6. (1) Toute personne ad liberté et a la sécurité de sa personne et a le droit de n'en être privée que par l'application régulière de la loi qui comprend nécessairement :</p> <p>[List of rights follows]</p>
<p>July 16, 1980</p>	<p>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</p>	<p>6. (1) Everyone has the right to life, liberty and security of his or her person and the right not to be deprived thereof except by due process of law, which process encompasses:</p> <p>[List of rights follows]</p>
<p>August 5, 1980</p>	<p>August 5, 1980: Revised Discussion Draft with Memo:</p>	<p>6. Everyone has the right to life, liberty and security of the person</p>

		and the right not to be deprived thereof except by due process of law.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	n/a
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft</u> <u>French Version</u>	6. Everyone has the right to life, liberty and security of the person and right not to be deprived thereof except in accordance with the principles of fundamental justice. 6. Toute personne a le droit à la vie, à la liberté et à la sécurité de sa personne et a le droit de n'en être privée qu'en vertu des principes de justice fondamentale.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	English unchanged 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 vertu des principes de justice fondamentale.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	English unchanged 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.

<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Both unchanged¹⁰</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>English unchanged since Sep. 3. French unchanged since Version 1:</p> <p>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.</p> <p>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.</p>

Further Reading—Discussions Surrounding Clause:

- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [March, 19, 1981: Memo from Senior Counsel \(Public Law to Minister via B.L. Strayer\) re Charter Rights Equality for Men and Women](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 8: Unreasonable Search or Seizure

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>6. (1) Everyone has the right to life, liberty and security of his or her person and the right not to be deprived thereof except by due process of law, which process encompasses the following:</p>
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¹⁰ “Everyone has the right to life” is underlined.

		<p>a) the right to be secure against unreasonable searches and seizures;</p> <p>b) the right to protection against arbitrary or unlawful interference with privacy;</p> <p>6. (1) Toute personne a droit à la vie, à la liberté et à la sécurité de sa personne et a le droit de n'en être privée que par l'application régulière de la loi qui comprend nécessairement :</p> <p>(a) le droit d'être protégé contre les saisies et perquisitions déraisonnables;</p> <p>(b) le droit d'être protégé contre les immixtions arbitraires ou illégales dans sa vie privée;</p>
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	Unchanged.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	<p>7. Everyone has the right to be secure against unreasonable search and seizure.</p> <p>[...]</p> <p>9. Everyone has the right to be secure against arbitrary invasion of privacy.</p>
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	6. Everyone has the right to be secure against search and seizure except on grounds provided by law and in accordance with prescribed procedures.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft French Version</u>	7. Everyone has the right to be secure against unreasonable search and seizure.

		<p>7. Toute personne a le droit d’être protégée contre les saisies et perquisitions déraisonnables.</p>
September 24, 1980	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>English unchanged.</p> <p>8. Chacun a droit à la protection contre les perquisitions et les saisies abusives.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>8. Everyone has the right ^[not] to be ^[subjected to] secure against unreasonable search and ^[or] seizure. ^[*except on grounds and in accordance with procedures established by law]</p> <p>8. Chacun a droit à la protection contre les fouilles, les perquisitions et les saisies abusives.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Everyone has the right not to be subjected to search or seizure except on grounds, and in accordance with procedures, established by law.</p> <p>Chacun a droit à la protection contre les fouilles, les perquisitions et les saisies abusives dont les motifs ne sont pas fondés sur la loi et qui ne sont pas effectués dans les conditions que celle-ci prévoit.</p>
Oct. 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>English and French unchanged:</p> <p>8. Everyone has the right not to be subjected to search or seizure except on grounds, and in accordance with procedures, established by law.</p> <p>Chacun a droit à la protection contre les fouilles, les perquisitions et les saisies</p>

		abusives dont les motifs ne sont pas fondés sur la loi et qui ne sont pas effectués dans les conditions que celle-ci prévoit.
Nov. 12, 1980	<u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u>	Drop “abusives”
Nov. 14, 1980	<u>November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:</u>	"8. Chacun a droit à la protection contre les fouilles, les perquisitions et les saisies dont les motifs ne sont pas fondés sur la loi et qui ne sont pas effectuées dans les conditions que celle-ci prévoit."
Nov. 17, 1980	<u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u>	French only in draft. Same as Nov. 14
Nov. 20, 1980	<u>November 20, 1980: Loose Drafts:</u>	French only. Same as Nov. 14.
Nov. 21, 1980	<u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u>	8. Everyone has the right to be secure against unreasonable search and seizure. "8. Chacun a droit à la protection contre les fouilles, les perquisitions et les saisies abusives." ¹¹ -- Annex 22 Same as Nov. 14 ¹²
Nov. 24, 1980	<u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated</u>	Same as Nov. 21

¹¹ There are two French versions. The standard underneath and a standalone on Annex 22.

¹² There's a note in margin, “no longer [illegible]”

	<u>November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Annex 22 Same as Nov. 14 draft (French only)
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Same.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	No change from Nov. 21 (English)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	No change from Nov. 21 (English)
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	No change from Nov. 21 (French)
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	No change from Nov. 21 (both)
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	No change from Nov. 21 (English) French changed: « Chacun a droit à la protection contre les fouilles, les perquisitions et les saisies illégales. »
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	Everyone has the right to be secure against unreasonable search or seizure.

		Chacun a droit à la protection contre les fouilles, les perquisitions ou les saisies abusives.
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Further Reading – Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 9: Arbitrary Detention

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>6. (1) Everyone has the right to life, liberty and security of his or her person and the right not to be deprived thereof except by due process of law, which process encompasses the following:</p> <p>[...]</p> <p>c) the right not to be arbitrarily detained or imprisoned except on grounds provided by law and in accordance with prescribed procedures;</p> <p>6. (1) Toute personne ad liberté et a la sécurité de sa personne et a le droit de n’en être privée que par l’application régulière de la loi qui comprend nécessairement :</p> <p>[...]</p>
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		(c) le droit de ne pas être détenu ou emprisonné, si ce n'est pour des motifs et conformément à la procédure prévus par la loi;
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	(c) the right not to be detained or imprisoned except on grounds provided by law and in accordance with prescribed procedures;
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	8. Everyone has the right not to be arbitrarily detained or imprisoned.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	7. Everyone has the right not to be detained or imprisoned except on grounds provided by law and in accordance with prescribed procedures.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft:</u> <u>French Version</u>	8. Everyone has the right not to be arbitrarily detained or imprisoned. 8. Toute personne a le droit de ne pas être détenue ou emprisonnée d'une façon arbitraire.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	English unchanged. 9. Chacun a droit à la protection contre la détention ou l'emprisonnement arbitraires.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	9. Everyone has the right not to be arbitrarily detained or imprisoned. French same.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address</u>	9. Everyone has the right not to be arbitrarily detained or

	<u>to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	<p>imprisoned except on grounds, and in accordance with procedures, established by law.</p> <p>Chacun a droit à la protection contre la détention ou l'emprisonnement dont les motifs ne sont pas fondés sur la loi et qui ne sont pas effectués dans les conditions que celle-ci prévoit.</p>
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	<p>Same as Version 2:</p> <p>9. Everyone has the right not to be arbitrarily detained or imprisoned except on grounds, and in accordance with procedures, established by law.</p> <p>Chacun a droit à la protection contre la détention ou l'emprisonnement dont les motifs ne sont pas fondés sur la loi et qui ne sont pas effectués dans les conditions que celle-ci prévoit.</p>
Nov. 21, 1980	<u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u>	<p>9. Everyone has the right not to be arbitrarily detained or imprisoned.</p> <p>9. Chacun a droit à la protection contre la détention ou l'emprisonnement arbitraires.</p>
Nov. 24, 1980	<u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Same as Nov. 21
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting</u>	Same.

	<u>Possible Amendments to Proposed Resolution on Constitution of Canada</u>	
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	No change from Nov. 21 (English)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	No change from Nov. 21 (English)
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	No change from Nov. 21 (French)
Jan. 1981	<u>Briefing Book/SJC version</u>	No change.

Further Reading—Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 10: Rights Upon Arrest or Detention

July 4, 1980	<u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u> <u>French Version</u>	d) the right on arrest or detention (i) to be informed promptly of the reason for the arrest or detention, (ii) to be provided with the opportunity to retain and consult counsel without delay, and
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		<p>(iii) to the remedy by way of habeas corpus for the determination of the validity of his or her detention and for release if the detention is not lawful;</p> <p>(d) le droit, en cas d'arrestation ou de détention,</p> <p>(i) d'être informé sans délai des motifs de son arrestation ou de sa détention,</p> <p>(ii) de se faire offrir la possibilité de bénéficier sans délai des services d'un avocat, et</p> <p>(iii) de faire contrôler, par habeas corpus, la légalité de sa détention et d'obtenir, le cas échéant, sa libération;</p>
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	Unchanged.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	<p>10. Everyone has the right on arrest or detention</p> <p>(a) to be informed promptly of the reasons;</p> <p>(b) to retain and instruct counsel without delay; and</p> <p>(c) to the remedy by way of habeas corpus for the determination of the validity of the detention and for release if the detention is not lawful.</p>
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	<p>Subsection (a) slightly changes:</p> <p>(a) to be informed promptly of the reasons therefor;</p>

<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>Unchanged.</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft: French Version</u></p>	<p>English unchanged.</p> <p>9. Toute personne a le droit, en cas d'arrestation ou de détention</p> <p>a) d'être informée sans délai des motifs de son arrestation ou de sa détention;</p> <p>b) d'avoir sans délai l'assistance d'un avocat de son choix;</p> <p>c) de faire contrôler, par habeas corpus, la légalité de sa détention et d'obtenir, le cas échéant, sa libération.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>English unchanged.</p> <p>10. Chacun a droit, en cas d'arrestation ou de détention:</p> <p>a) d'être informé sans délai des motifs de son arrestation ou de détention;</p> <p>b) de bénéficier sans délai de l'assistance d'un avocat de son choix;</p> <p>c) de faire contrôler, par <i>habeas corpus</i>, la légalité de sa détention et d'obtenir, le cas échéant, sa libération.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>Subsection (c) is changed</p> <p>(c) to have the validity of the detention determined by way of <i>habeas corpus</i> and to be released if the detention is not lawful.</p> <p>10. Chacun a le droit, en cas d'arrestation ou de détention :</p> <p>a) d'être informé dans les meilleurs délais des motifs de</p>

		<p>son arrestation ou de sa détention;</p> <p><i>b)</i> d’avoir recours sans délai a l’assistance d’un avocat;</p> <p><i>c)</i> de faire contrôler, par <i>habeas corpus</i>, la légalité de sa détention et d’obtenir, le cas échéant, sa libération.</p>
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2];</u>	Unchanged.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	<p>Unchanged:</p> <p>10. Everyone has the right on arrest or detention</p> <p><i>(a)</i> to be informed promptly of the reasons therefor;</p> <p><i>(b)</i> to retain and instruct counsel without delay; and</p> <p><i>(c)</i> to have the validity of the detention determined by way of <i>habeas corpus</i> and to be released if the detention is not lawful.</p> <p>10. Chacun a le droit, en cas d’arrestation ou de détention :</p> <p><i>a)</i> d’être informé dans les meilleurs délais des motifs de son arrestation ou de sa détention;</p>

		<p>b) d’avoir recours sans délai a l’assistance d’un avocat;</p> <p>c) de faire contrôler, par <i>habeas corpus</i>, la légalité de sa détention et d’obtenir, le cas échéant, sa libération.</p>
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	(b) to retain and instruct counsel without delay <u>and to be informed promptly of that right;</u> and
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“(b) to retain and instruct without delay <u>and to be informed promptly of this right;</u> b) d’avoir recours sans délai à l’assistance d’un avocat <u>et d’être informé de ce droit dans les meilleurs délais;</u>
Dec. 12, 1980	<u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u>	Reverses back to Dec. 5 version “that right” (English) (b) to retain and instruct counsel without delay <u>and to be informed promptly of that right</u> French is same as Dec. 8
Dec. 12, 1980	<u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u>	Same
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	No change from Dec. 12 version (section b). Everything else unchanged since Oct. 2.

<p>Dec. 15, 1980</p>	<p><u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>Annex 3 not available</p>
<p>Dec. 19, 1980</p>	<p><u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u></p>	<p>No change from Dec. 12 version (section b). Everything else unchanged since Oct. 2.</p>
<p>Dec. 30, 1980</p>	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>b) d'avoir recours sans délai à l'assistance d'un avocat et d'être informé ^[illegible] de ce droit dans les meilleurs délais;</p>
<p>Jan. 9[?], 1981</p>	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u></p>	<p>English 10(b) still has the word “promptly”</p> <p>French (a) and (b) are now changed:</p> <p>a) d’être informé dans les plus brefs délais des motifs de son arrestation ou de sa détention;</p> <p>b) d’avoir recours sans délai à l’assistance d’un avocat et d’être informé de ce droit.</p>
<p>Jan. 12, 1981</p>	<p><u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u></p>	<p>10 Everyone has the right on arrest or detention</p> <p>(a) to be informed promptly of the reasons therefor;</p> <p>(b) to retain and instruct counsel without delay and to be informed of that right; and</p> <p>(c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.</p> <p>French is same as briefing book.</p>

Further Reading—Discussions Surrounding Clause:

- **Unknown Date. [Note Found in Trudeau Files](#):** “In S. 10(b) the right to “retain and instruct counsel without delay” is modified by the phrase “an arrest” and has been given a narrow construction by the Supreme Court. In the U.S.A. the “Miranda” rule is much broader. Would you listen to an argument for improvement or have you had it up to the neck?”
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 11: Rights of the Accused

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>e) the right of a person charged with an offence</p> <p>(i) to be informed of the specific charge,</p> <p>(ii) to be tried within a reasonable time,</p> <p>(iii) to be presumed innocent until proven guilty in a fair and public hearing by an independent and impartial tribunal,</p> <p>(iv) not to be denied reasonable bail without just cause having been established, and</p> <p>(v) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence;</p>
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		<p>f) the right not to be tried or punished more than once for an offence of which he or she has been finally convicted or acquitted;</p> <p>g) the right to the benefit of the lesser punishment where the punishment for an offence of which he or she has been convicted has been varied between the time of commission and the time of sentencing;</p> <p>h) the right not to be subjected to any cruel and unusual treatment or punishment;</p> <p>i) the right, when compelled to give evidence before any court, tribunal, commission, board or other authority, to counsel, to protection against self-crimination and to any other constitutional safeguard;</p> <p>j) the right to the assistance of an interpreter in any proceedings before a court, tribunal, commission, board or other authority, if the party or witness does not understand or speak the language in which</p>
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		<p>the proceedings are conducted.</p> <p>[...]</p> <p>(2) Everyone has the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his or her rights or obligations.</p> <p>(e) le droit d'une personne accusée d'une infraction</p> <p>(i) de connaître les accusations qui pèsent contre elle,</p> <p>(ii) d'être jugé dans un délai raisonnable,</p> <p>(iii) d'être présumée innocente tant qu'elle n'est pas déclarée coupable à l'issue d'un procès public et équitable devant un tribunal indépendant et impartial;</p> <p>(iv) de bénéficier d'une liberté assortie d'un cautionnement raisonnable, et de ne pas en être privée sans raison valable; et</p> <p>(v) de ne pas être déclaré coupable d'une infraction fondée sur une action ou une abstention qui, au moment où elle a été commise, ne constituait pas une infraction;</p> <p>(f) le droit de n'être jugé ou puni qu'une seule fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;</p> <p>(g) le droit de bénéficier de la peine la moins sévère, lorsque la peine qui sanctionne l'infraction dont il est déclaré</p>
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		<p>coupable est modifiée entre le moment de la perpétration de l’infraction et celui de la sentence,</p> <p>(h) le droit de n’être soumis à aucun traitement ou châtiment cruels et inusités;</p> <p>(i) le droit, si elle est requise de témoigner devant un tribunal, une commission, un conseil ou un autre organisme, aux services d’un avocat, a la protection contre les déclarations incriminantes et aux autres garanties constitutionnelles,</p> <p>(j) le droit de bénéficier des services d’un interprété devant un tribunal, une commission, un conseil ou un autre organisme si une partie ou un témoin ne comprend pas ou ne parle pas la langue des procédures.</p> <p>[...]</p> <p>(2) Toute personne adroit lune audition juste et impartiale, conforme aux principes fondamentaux de la justice, pour la détermination de ses droits et obligations.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>Unchanged.</p>
<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>11. Everyone accused of an offence has the right</p> <p>(a) to be informed promptly of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p> <p>(c) to be presumed innocent until proven guilty according to</p>

		<p>law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(d) not to be denied reasonable bail without just cause;</p> <p>(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence,</p> <p>(f) not to be tried or punished more than once for an offence of which the person has been finally convicted or acquitted; and</p> <p>(g) to the benefit of the lesser punishment where the punishment for an offence of which the person has been convicted has been varied between the time of commission and the time of sentencing.</p>
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	<p>11. Anyone charged with an offence has the right</p> <p>(a) to be informed promptly of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p> <p>(c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an</p>

		<p>independent and impartial tribunal;</p> <p>(d) not to be denied reasonable bail without just cause;</p> <p>(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence;</p> <p>(f) not to be tried or punished more than once for an offence of which he or she has been finally convicted or acquitted; and</p> <p>(g) to the benefit of the lesser punishment where the punishment for an offence of which he or she has been convicted has been varied between the time of commission and the time of sentencing.</p> <p>14. A witness has the right not to be compelled to testify if denied the right to consult counsel.</p>
<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>9. Anyone charged with an offence has the right</p> <p>(a) to be informed promptly of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p>

		<p>(c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(d) not to be denied pre-trial release except on grounds provided by law and in accordance with prescribed procedures;</p> <p>(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence;</p> <p>(f) not to be tried or punished more than once for an offence of which he or she has been finally convicted or acquitted; and</p> <p>(g) to the benefit of the lesser punishment where the punishment for an offence of which he or she has been convicted has been varied between the time of commission and the time of sentencing.</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>10. Anyone charged with an offence has the right</p> <p>(a) to be informed promptly of the specific offence;</p>

		<p>(b) to be tried within a reasonable time;</p> <p>(c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(d) not to be denied reasonable bail without just cause;</p> <p>(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence;</p> <p>(f) not to be tried or punished more than once for an offence of which he or she has been finally convicted or acquitted; and</p> <p>(g) to the benefit of the lesser punishment where the punishment for an offence of which he or she has been convicted has been varied between the time of commission and the time of sentencing.</p> <p>10. Toute personne inculpée d'une infraction a le droit</p> <p>a) d'être informée sans délai de l'infraction précise qu'on lui reproche;</p>
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		<p>b) d’être jugée dans un délai raisonnable;</p> <p>c) d’être présumée innocente tant qu’elle n’est pas déclarée coupable à l’issue d’un procès public et équitable devant un tribunal indépendant et impartial;</p> <p>d) de ne pas en être privée sans raison valable d’une mise en liberté assortie d’un cautionnement raisonnable;</p> <p>e) de ne pas être déclarée coupable d’une infraction fondée sur une action ou une omission qui, au moment où elle a été commise, ne constituait pas une infraction;</p> <p>f) de n’être poursuivie ou punie qu’une seule fois pour une infraction dont elle a déjà été définitivement acquittée ou déclarée coupable;</p> <p>g) de bénéficier de la peine la moins sévère, lorsque la peine qui sanctionne l’infraction dont elle est déclarée coupable est modifiée entre le moment de la perpétration de l’infraction et celui de la sentence.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>English is unchanged.</p> <p>11. Tout inculpé a droit :</p> <p>a) d’être informé sans délai de l’infraction précise qu’on lui reproche;</p>

		<p>b) d’être jugé dans un délai raisonnable;</p> <p>c) d’être présumé innocent tant qu’il n’est pas déclaré coupable à l’issue d’un procès public et équitable devant un tribunal indépendant et impartial;</p> <p>d) de ne pas être privé sans raison valable d’une mise en liberté assortie d’un cautionnement raisonnable;</p> <p>e) 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;</p> <p>f) de n’être poursuivi ou puni qu’une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;</p> <p>g) 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.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>(d) “not to be denied reasonable bail without just cause <i>[except on grounds + in accordance with procedures, established by law];”</i></p> <p>11. Tout inculpe a le droit :</p> <p>a) d’être informé dans le meilleurs délais de l’infraction précise qu’on lui reproche;</p>

		<p><i>b)</i> d’être juge dans un délai raisonnable;</p> <p><i>c)</i> 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;</p> <p><i>(d)</i> de ne pas être privé sans motif valable d’une mise en liberté assortie d’un cautionnement raisonnable;</p> <p><i>e)</i> 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;</p> <p><i>f)</i> de n’être poursuivi ou puni qu’une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;</p> <p><i>g)</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.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>English change:</p> <p><i>(d)</i> not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;</p> <p>French change:</p> <p><i>d)</i> de ne pas être privé d’une mise en liberté assortie d’un cautionnement raisonnable, sauf pour les motifs fondés sur la loi</p>

		<p>et dans les conditions que celle-ci prévoit;</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>Unchanged:</p> <p>11. Anyone charged with an offence has the right</p> <p>(a) to be informed promptly of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p> <p>(c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;</p> <p>(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence;</p> <p>(f) not to be tried or punished more than once for an offence of which he or she has been finally convicted or acquitted; and</p> <p>(g) to the benefit of the lesser punishment where the punishment for an offence of which he or she has been convicted has been varied between the time of commission and the time of sentencing.</p> <p>11. Tout inculpe a le droit :</p>

		<p><i>a)</i> d’être informé dans le meilleurs délais de l’infraction précise qu’on lui reproche;</p> <p><i>b)</i> d’être jugé dans un délai raisonnable;</p> <p><i>c)</i> 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;</p> <p><i>d)</i> de ne pas être privé d’une mise en liberté assortie d’un cautionnement raisonnable, sauf pour des motifs fondés sur la loi et dans les conditions que celle-ci prévoit;</p> <p><i>e)</i> 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;</p> <p><i>f)</i> de n’être poursuivi ou puni qu’une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;</p> <p><i>g)</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.</p>
<p>Nov. 12, 1980</p>	<p><u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u></p>	<p>Changes Agreed to:</p> <p>(f) not to be tried or punished more than once for an offence of which <u>that person</u> has been finally convicted or acquitted</p>

		<p>(g) to the benefit of the lesser punishment where the punishment for an offence of which <u>that person</u> has been convicted has been varied between the time of commission and the time of sentencing</p> <p>Recommended Changes:</p> <p>{a) to be informed promptly of the offence with which <u>that person is charged.</u></p> <p>“Parallel construction to (f) and (g). Completes the thought.”</p>
Nov. 14, 1980	<u>November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:</u>	<p>“(f) not to be tried or punished more than once for an offence of which <u>the person</u> has been finally convicted or acquitted; and</p> <p>(g) to the benefit of the lesser punishment where the punishment for an offence of which <u>the person</u> has been convicted has been varied between the time of commission and the time of sentencing.”</p>
Nov. 17, 1980	<u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u>	Same as Nov. 14
Nov. 20, 1980	<u>November 20, 1980: Annex [No Title] Draft</u>	“(e) to the benefit of trial by jury where the maximum punishment for the offence of which the person has been charged is imprisonment for ten ¹³ years or a more severe punishment
Nov. 20, 1980	<u>November 20, 1980: Loose Drafts:</u>	Same as Nov. 14

¹³ The word “ten” is circled and there’s also a question mark scratched out.

<p>Nov. 21, 1980</p>	<p><u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u></p>	<p>(d) not to be denied reasonable bail without just cause;</p> <p>d) de ne pas être privé sans motif valable d'une mise en liberté assortie d'un cautionnement raisonnable;</p> <p>(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence <u>under domestic or international law</u>;¹⁴</p> <p>(f) not to be tried or punished more than once for an offence¹⁵ which <u>that person</u> has, <u>in Canada</u>, been finally convicted or acquitted."</p> <p>--</p> <p>(e) except in the case for an offence under military law, to the benefit of trial by jury where the maximum punishment for the offence of which the person has been charged is imprisonment for ten ^[five] years or a more severe punishment;</p> <p>--</p> <p>Appendix 23</p> <p>(f) & (g) same as Nov. 14</p>
<p>Nov. 24, 1980</p>	<p><u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to</u></p>	<p>(d) Same as Nov. 21</p> <p>(e) English same as Nov. 21</p>

¹⁴ There is some text written in column, but not related to the wording.

¹⁵ There is the word "offence" written under this clause, while the word "office" is underlined to show that it is a mistake.

	<p><u>Proposed Resolution on Constitution of Canada</u>¹⁶</p>	<p>e) 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 <u>prévues par le droit interne ou le droit international</u>;</p> <p>(f) not to be tried or punished more than once of^[or] an offence of <u>which the person has, in Canada, been finally convicted or acquitted</u>;</p> <p>f) de n'être poursuivi ou puni qu'une fois pour infraction dont il a déjà été, <u>au Canada</u>, définitivement acquitté ou déclaré coupable;</p> <p>---</p> <p>(e) except in the case of an offence under military law, to the benefit of trial by jury where the maximum punishment for the offence of which the person has been charged is imprisonment for five years or a more severe punishment,</p> <p>e) sauf s'il s'agit d'une infraction prévue par le droit militaire, de bénéficier d'un procès avec jury lorsque la peine maximale prévue pour l'infraction dont il est accusé est un emprisonnement de dix^[cinq] ans ou une peine plus grave'</p> <p>---</p> <p>Appendix 23</p> <p>(f)& (g) Same as Nov. 14</p>
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¹⁶ [Memo](#) from this day is the same wording.

<p>Nov. 25, 1980</p>	<p><u>November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution Version 2</u></p>	<p>“Recommendation: That an amendment be put forward to replace “he or she” with “that person” in paragraphs 11(f) and (g) See Annex 25 for draft amendment¹⁷”</p>
<p>Nov. 25, 1980</p>	<p><u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada¹⁸</u></p>	<p>(d) same</p> <p>(e) same wording</p> <p>(f) not to be tried or punished more than once for an offence of which <u>the person</u> has, <u>in Canada</u>, been finally convicted or acquitted.</p> <p>--</p> <p>e) Same</p> <p>--</p> <p>Appendix 25</p> <p>(f) & (g) same as Nov. 14.</p> <p>French:</p> <p>d) Same</p> <p>[...]</p> <p>e) Same</p> <p>f) Same</p> <p>[...]</p> <p>e) sauf s’il s’agit d’une infraction relevant de la justice</p>

¹⁷ However, in the Annex mentioned (also in the table), the term “the person” is used instead of “that person”.

¹⁸ Memos found on this day have the same wording. [[Version 1](#)] [[Version 2](#)]

		<p>militaire, de bénéficiaire 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;</p> <p>Annexe 25</p> <p>English only</p>
Dec. 2, 1980	<u>December 2, 1980: Memo from Senior Counsel (Public Law) to Deputy Minister re Charter of Rights and Right Against Self-Crimination:</u>	"Amend section 11 to include as (c) "not to be compelled to testify against oneself".
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	<p>"(c) not to be compelled to testify against himself or herself in proceedings in respect of the charge;"</p> <p>--</p> <p>"(e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence <u>under Canadian or international law;</u></p> <p>(f) Same as Nov. 25 draft.¹⁹</p> <p>(e) 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 <u>prevue par le droit canadien ou le droit international;</u></p> <p>f) French same as Nov. 24 draft.</p>

¹⁹ This base text is different, but with the incorporated handwritten changes, the clause is the same as Nov. 25.

<p>Dec. 8, 1980</p>	<p><u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>(c) not to be compelled to testify against oneself in proceedings in respect of the charge;</p> <p>c) de ne pas être contraint de témoigner contre lui-même dans toute procédure concernant son inculpation;</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Draft [No Title]</u></p>	<p>Same as Dec. 8.</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u></p>	<p>Same in both languages as Dec. 8.</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u></p>	<p>Same</p>
<p>Dec. 15, 1980</p>	<p><u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>That right not to testify against self should be added. Annex 4 is missing.</p>
<p>Dec. 19, 1980</p>	<p><u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u></p>	<p>11. Anyone charged with an offence has the right</p> <p>(a) Same as Oct. 2</p> <p>(b) Same as Oct. 2</p> <p>(c) Same as Dec. 8</p> <p>(d) Same as Oct. 2</p> <p>(e) Same as Nov. 21</p> <p>(f) except in the case of an offence under military law, to the benefit of trial by jury where the maximum punishment for the offence of which the person has been</p>

		<p>charged is imprisonment for five years or a more severe punishment;</p> <p>(g) Same as Dec. 5 (h) Same as Nov. 25 (i) Same as Nov. 14.</p>
<p>Dec. 30, 1980</p>	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>a) Same as Oct. 2 b) Same as Oct. 2 c) De ne pas être contraint de témoigner contre lui-même dans toute procédure concernant l’infraction; 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) Same as Nov. 21 f) Same as Nov. 25 g) Reverts to Nov. 24th version h) Same as Nov. 24 i) Same as Oct. 2</p>
<p>Jan. 9, 1981</p>	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u></p>	<p>(Bold is different for English. French I’ve just added all)</p> <p>“Any person charged with an offence has the right</p> <p>(a) to be informed promptly of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p> <p>(c) not to be compelled to be a witness in proceedings against that person in respect of the offence;</p> <p>(d) to be presumed innocent until proven guilty according to</p>

		<p>law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(e) not to be denied reasonable bail without just cause;</p> <p>(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;</p> <p>(g) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence under Canadian or international law;</p> <p>(h) if finally convicted or acquitted of the offence in Canada, not to be tried for it again and, if so convicted, not to be punished for it more than once; and</p> <p>(i) if convicted 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.</p> <p>French:</p> <p>11. Tout inculpé a le droit:</p> <p>a) d’être informé dans les <u>plus brefs</u> délais de l’infraction précise qu’on lui reproche;</p>
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		<p>b) d’être jugé dans un délai raisonnable;</p> <p>c) de ne pas être contraint de témoigner contre lui-même dans toute poursuite intentée contre lui pour l’infraction qu’on lui reproche;</p> <p>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;</p> <p>e) de ne pas être privé <u>sans juste cause</u> d’une mise en liberté assortie d’un cautionnement raisonnable;</p> <p>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;</p> <p>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 <u>infraction prévue par le droit interne ou le droit international</u>;</p> <p>h) d’une part de ne pas être jugé à nouveau pour une infraction dont il a été, au Canada, définitivement déclaré coupable ou acquitté, d’autre part de n’être puni qu’une fois en raison d’une telle déclaration de culpabilité;</p>
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		<p>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.</p>
Jan. 12, 1981	<p><u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u></p>	<p>Same as briefing book (English)</p> <p>[French needs to be confirmed]</p>
Feb. 13, 1981	<p><u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u></p>	<p>11 Any person charged with an offence has the right</p> <p>(a) to be informed without unreasonable delay of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p> <p>(c) not to be compelled to be a witness in proceedings against that person in respect of the offence;</p> <p>(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(e) not to be denied reasonable bail without just cause;</p> <p>(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;</p> <p>(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</p>

		<p>principles of law recognized by the community of nations;</p> <p>(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</p> <p>(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.</p> <p>11 Tout inculpé a le droit :</p> <p>a) d’être informé sans délai anormal de l’infraction précise qu’on lui reproche;</p> <p>b) d’être jugé dans un délai raisonnable;</p> <p>c) de ne pas être contraint de témoigner contre lui-même dans toute poursuite intentée contre lui pour l’infraction qu’on lui reproche;</p> <p>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;</p> <p>e) de ne pas être privé sans juste cause d’une mise en liberté assortie d’un cautionnement raisonnable;</p> <p>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</p>
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		<p>emprisonnement de cinq ans ou une peine plus grave;</p> <p>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;</p> <p>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;</p> <p>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.</p>
<p>April 22, 1981</p>	<p><u>April 22, 1981: Memo from Mary Dawson to Roger Tassé</u> [No Title]:</p>	<p>“...would replace the word “trouvé” in the French version by the word “déclaré” to make paragraph (h) of clause 11 consistent with paragraphs (d), (g), and (i) of that clause.</p>
<p>April 24, 1981</p>	<p><u>April 24, 1981: Consolidation of proposed constitutional resolution tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981:</u></p>	<p>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 déclaré coupable et puni;</p>

<p>Unknown date</p>	<p>Section 11: Rights After Being Charged, Loose DRAFT:</p>	<p>11. Anyone charged with an offence has the right</p> <ul style="list-style-type: none"> (a) to be informed promptly of the specific offence; (b) to be tried within a reasonable time; (c) not to be compelled to testify against oneself in proceedings 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 <u>without just cause</u>; (f) except in the case of an offence under military law, to the benefit of trial by jury where the maximum punishment for the offence the person has been charged is imprisonment for five years or a more severe punishment; (g) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence <u>under Canadian or international law</u>; (h) <u>if finally convicted or acquitted of the offence</u>
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		<p><u>in Canada</u>, not to be tried or punished for <u>the</u> offence more than once; and</p> <p>(i) <u>if convicted 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.</u></p>
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Further Reading—Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Addendum to Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:](#)
- [December 18, 1980: Proposed Resolution: Matters Outstanding](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 12: Cruel & Unusual Punishment

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>[...] h) the right not to be subjected to any cruel and unusual treatment or punishment;</p> <p>(h) le droit de n’être soumis à aucun traitement ou châtimement cruels et inusités;</p>
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July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	Unchanged.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	Clause now is a standalone: 12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	10. Everyone has the right not to be subjected to any cruel and unusual punishment.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft:</u> <u>French Version</u>	11. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment. 11. Toute personne a le droit de n’être soumise à aucun traitement ou peine et inusités cruels.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	- 12. Chacun a le droit de n’être soumis à aucun traitement ou peine cruels et inusités.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	English unchanged. 12. Chacun a droit à la protection contre tous traitements ou peines cruels et inusités
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address</u>	Unchanged:

	<p><u>to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.</p> <p>12. Chacun a droit à la protection contre tous traitements ou peines cruels et inusités.</p>
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Further Reading—Discussions Surrounding Clause:

- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 2](#)] (Discussion re marginal note for French version)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 13: Protection Against Self-Incrimination

July 4, 1980	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>i) the right, when compelled to give evidence before any court, tribunal, commission, board or other authority, to counsel, to protection against self-incrimination and to any other constitutional safeguard;</p> <p>(i) le droit, si elle est requise de témoigner devant un tribunal, une commission, un conseil ou un autre organisme, aux services d’un avocat, a la protection contre les déclarations incriminantes et aux autres garanties constitutionnelles,</p>
July 16, 1980	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	Unchanged.
August 5, 1980	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	13. A witness has the right when compelled to testify not to have

		<p>any evidence so given used against him or her in any subsequent proceedings, except a prosecution for perjury or the giving of contradictory evidence.</p> <p>14. A witness has the right not to be compelled to testify if denied counsel.</p>
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	<p>13. Unchanged.</p> <p>14. A witness has the right not to be compelled to testify if denied the right to consult counsel.</p>
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	<p>Unchanged.</p> <p>14. is removed.</p>
September 3, 1980	<p><u>September 3, 1980: Revised Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>12. A witness has the right when compelled to testify not to have any evidence so given used to incriminate him or her in any subsequent proceedings, except a prosecution for perjury or for the giving of contradictory evidence.</p> <p>12. Un témoin a le droit, s'il est contraint de témoigner, à ce que son témoignage ne soit pas utilisé pour l'incriminer dans des procédures ultérieures sauf lors d'une poursuite pour parjure ou pour témoignages contradictoires.</p>
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	<p>English unchanged.</p> <p>13. Le témoin a droit, s'il est contraint de témoigner, à ce que son témoignage ne soit pas utilisé pour l'incriminer dans des procédures ultérieures, sauf</p>

		lors de poursuites pour parjure ou pour témoignages contradictoires.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	<p>13. A witness has the right when compelled to testify not to have any ^[incriminating] evidence so given used to incriminate ^[against] him or her in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence.</p> <p>13. Chacun a droit, s'il est contraint de témoigner, à ce que son témoignage ne soit pas utilisé pour l'incriminer dans d'autres procédures, sauf lors de poursuites pour parjure ou pour témoignages contradictoires.</p>
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	<p>13. A witness has the right when compelled to testify not to have any incriminating evidence so given used to incriminate him or her in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence.</p> <p>13. Chacun a droit, s'il est contraint de témoigner, a ce qu'aucun témoignage incriminant qu'il donne ne soit utilise pour l'incriminer dans d'autres procédures, sauf lors de poursuites pour parjure ou pour témoignages contradictoires.</p>
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	<p>Unchanged from Version 2:</p> <p>13. A witness has the right when compelled to testify not to have any incriminating evidence so given used to incriminate him or her in any other proceedings, except a prosecution for perjury</p>

		<p>or for the giving of contradictory evidence.</p> <p>13. Chacun a droit, s'il est contraint de témoigner, a 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.</p>
Nov. 10, 1980	<u>November 10, 1980: Amendments to Proposed Resolution:</u>	replace "to incriminate" with "against"
Nov. 12, 1980	<u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u>	"13. A witness who is compelled to testify in any proceedings has the right not to have any incriminating evidence so given used <u>against the witness</u> in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence.
Nov. 14, 1980	<u>November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:</u>	"13. A witness <u>who is</u> compelled to testify in any proceedings has a right not to have any incriminating evidence so given used <u>against the witness</u> in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence."
Nov. 17, 1980	<u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u>	Same as Nov. 14
Nov. 20, 1980	<u>November 20, 1980: Annex [No Title] Draft</u>	13. A witness <u>who is</u> compelled to testify in any proceedings has the right not to have any incriminating evidence so given used <u>against that witness</u> in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence.

		13. Chacun a droit, s'il est contraint de témoigner, à ce qu'aucun témoignage incriminant qu'il <u>aura rendu</u> ne soit utilisé contre lui dans d'autres procédures, sauf lors de poursuites pour parjure ou pour témoignage contradictoire.
Nov. 21, 1980	<u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u>	Same as Nov. 20
Nov. 24, 1980	<u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Same as Nov. 20
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	13. A witness <u>who is</u> compelled to testify has the right not to have any incriminating evidence so given used <u>against that witness</u> in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence.
Dec. 2, 1980	<u>December 2, 1980: Memo from Senior Counsel (Public Law) to Deputy Minister re Charter of Rights and Right Against Self-Crimination:</u>	"Amend section 13 to read: "A witness testifying in any proceeding has the right not to have any incriminating evidence so given used against that person in any other proceeding, except a prosecution for perjury or for the giving of contradictory evidence."
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	"13. A witness <u>who testifies in any proceedings</u> has the right not to have any incriminating evidence so given used <u>against that witness</u> in any other proceedings, except a prosecution for perjury or for the

		giving of contradictory evidence." French same as Nov. 20
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Same as Dec. 8 draft. ²⁰ A witness <u>who testifies in any proceedings</u> has the right not to have any incriminating evidence so given used <u>against the</u> ^[that] <u>witness</u> in any other proceedings, except a prosecution for perjury or for the giving of contradictory evidence.
Dec. 12, 1980	<u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u>	English same as Dec. 8 draft French same as Nov. 24 draft
Dec. 12, 1980	<u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u>	Same
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Should be amended to extend protection for self-crimination for any witness testifying. Annex 5 missing.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	No change from Dec. 8 draft (English)

²⁰ The base text is slightly different using the word “the witness” instead of “that witness”. However, the word “the” is scratched out and “that” is added indicating maybe that the wording was incorrect. There’s a few of these typos that are corrected in handwriting to what it should be.

<p>Dec. 30, 1980</p>	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>French same as Nov. 20</p>
<p>Jan, 9, 1981</p>	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u></p>	<p>“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 in a prosecution for perjury or for the giving of contradictory evidence.”</p> <p>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.</p>
<p>Jan. 12, 1981</p>	<p><u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u></p>	<p>Same</p>

Further Reading—Discussions Surrounding Clause:

- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 2](#)]
- [December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 18, 1980: Proposed Resolution: Matters Outstanding](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 14: Right to an Interpreter

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft: French Version</u></p>	<p>j) the right to the assistance of an interpreter in any proceedings before a court, tribunal, commission, board or other authority, if the party or witness does not understand or speak the language in which the proceedings are conducted.</p> <p>[...]</p> <p>13(4) In proceedings in any court in Canada relating to an offence</p> <p>a) created by or pursuant to an Act of Parliament, or</p> <p>b) created by or pursuant to an Act of the legislature of a province if the punishment for the offence may be imprisonment,</p> <p>any person giving evidence before the court has the right to be heard in English or French, through the services of an interpreter where necessary, and the right not to be placed at a disadvantage is so being heard.</p> <p>(j) le droit de bénéficier des services d'un interprété devant un tribunal, une commission, un conseil ou un autre organisme si une partie ou un témoin ne comprend pas ou ne parle pas la langue des procédures.</p> <p>[...]</p>
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		<p>13(4) Toute appelé à témoigner devant personne d'utiliser le français ou une cour au Canada a le droit si nécessaire, et le droit l'anglais avec un interprète de ne pas être défavorise en conséquence,</p> <p>(a) dans les procédures consécutives Aune infraction créée par une loi du Parlement, ou</p> <p>(b) dans les procédures consécutives Aune infraction créée par une loi d'un corps législatif provincial et passible d'une peine d'emprisonnement.</p>
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	Unchanged.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	15. A party or witness has the right to assistance of an interpreter if that person does not understand or speak the language in which the proceedings are conducted.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	12. A party or witness has the right to the assistance of an interpreter if that person does not understand or speak the language in which the proceedings are conducted.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	<p>13. A party [or] witness has the right to the assistance of an interpreter if that person does not understand or speak the language in which the proceedings are conducted.</p> <p>13. Une partie ou un témoin a le droit de bénéficier des services d'un interprète s'il ne comprend</p>

		pas ou ne parle pas la langue dans laquelle se déroulent les procédures.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	<p>“14. A party or witness in any proceedings has the right to the assistance of an interpreter if that person does not understand or speak the language in which the proceedings are conducted.”</p> <p>14. La partie ou le témoin qui, lors de procédures, ne comprennent pas ou ne parlent pas la langue employée ont droit à l’assistance d’un interprète.</p>
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	<p>14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted has the right to the assistance of an interpreter.</p> <p>French unchanged.</p>
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	<p>Unchanged:</p> <p>14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted has the right to the assistance of an interpreter.</p> <p>14. La partie ou le témoin qui, lors de procédures, ne comprennent pas ou ne parlent pas la langue employée ont</p>

		droit à l'assistance d'un interprète.
Dec. 12, 1980	December 12, 1980: Draft [No Title]	No change from Oct. 2 (English)
Dec. 19, 1980	December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada	No change from Oct. 2 (English)
Jan. 1981	Briefing Book and SJC	No change
Feb. 1981	February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:	<p>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.</p> <p>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.</p>

Further Reading – Discussions Surrounding Clause:

- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 15: Equality Rights

July 4, 1980	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	7. (1) Everyone has the right to equality before the law and to equal protection of the law without distinction or restriction other than any distinction or restriction provided by law that
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		<p>is fair and reasonable having regard to the object of the law.</p> <p>(2) Nothing in this section precludes any programme or activity authorized by or pursuant to law that has as its object the amelioration of conditions of disadvantaged persons or groups.</p> <p>7. (1) Tous sont égaux devant la loi et ont droit à la même protection devant la loi sans distinctions ou limitations, à l'exception de celles qui sont prévues par la loi, si elles sont justes et équitables compte tenu de son objet.</p> <p>(2) Les dispositions du présent article n'ont pas pour effet d'interdire les programmes ou les activités autorisés par la loi et destinés à améliorer la situation des défavorisés.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>7. (1) Everyone has the right to equality before the law and to equal protection of the law without unreasonable distinction or restriction.</p> <p>(2) Nothing in this section precludes any programme or activity authorized by or pursuant to law that has as its object the amelioration of conditions of disadvantaged persons or groups.</p>
<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>17. (1) Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex.</p>

		(2) Nothing in this section precludes any programme or activity that has as its object the amelioration of conditions of disadvantaged persons or groups.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	17. (1) Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex. (2) This section does not preclude any programme or activity that has as its object the amelioration of conditions of disadvantaged persons or groups.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	n/a
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	English unchanged 15. (1) Tous sont égaux devant la loi et ont droit à la même protection devant la loi sans distinction illicite fondée sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge ou le sexe. (2) Le présent article n'a pas pour effet d'interdire les programmes ou les activités destinés à améliorer la situation des personnes et des groupes défavorisés.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	15. (1) Everyone has the right to equality before the law and to the equal protection of the law without discrimination because

		<p>of race, national or ethnic origin, colour, religion, age or sex.</p> <p>(2) This section does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged persons or groups.</p> <p>15. (1) Tous sont égaux devant la loi et ont droit à la même protection de la loi, indépendamment de toute distinction fondée sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge ou le sexe.</p> <p>(2) Le présent article n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des personnes et des groupes défavorisés.</p>
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	Unchanged.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	<p>Unchanged:</p> <p>15. (1) Everyone has the right to equality before the law and to the equal protection of the law without discrimination because</p>

		<p>of race, national or ethnic origin, colour, religion, age or sex.</p> <p>(2) This section does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged persons or groups.</p> <p>15. (1) Tous sont égaux devant la loi et ont droit à la même protection de la loi, indépendamment de toute distinction fondée sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge ou le sexe.</p> <p>(2) Le présent article n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des personnes et des groupes défavorisés.</p>
<p>October-November, 1980 (Date unknown)</p>	<p>Loose DRAFT²¹:</p>	<p>ALTERNATIVE I</p> <p>15. (1) Everyone [Every person] has the right to equality before the law and to the equal protection <u>and equal benefit</u> of the law without <u>unreasonable distinction</u> because of race, national or ethnic origin, colour, religion, [age], or sex <u>and every such distinction shall be presumed to be unreasonable unless a compelling reason for finding it to be reasonable is shown.</u></p> <p>(2) This section does not preclude any law, program or activity that has as its object the amelioration of conditions of</p>

²¹ While the dating is unknown, the other drafts found in this memo range from October 12-November 3, 1980. This draft probably falls within that timeline or close thereto.

		<p>persons or groups <u>that are disadvantaged because of race, national or ethnic origin, colour, religion, [age] or sex.</u></p> <p>ALTERNATIVE II</p> <p>15.(1) Everyone [Every person] has the right to equality before the law and to the equal protection and equal benefit of the law without unreasonable distinction.</p> <p>(2) For the purposes of subsection (1), every distinction based on race, national or ethnic origin, colour, religion, [age] or sex shall be presumed to be unreasonable unless a compelling reason for finding it to be a reasonable is shown.</p> <p>(3) This section does not preclude any law, program or activity that has as its object the amelioration of conditions of persons or groups <u>that are disadvantaged because of race, national or ethnic origin, colour, religion, [age] or sex.</u></p>
<p>Nov. 14, 1980</p>	<p><u>November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:</u></p>	<p>“Equality Rights</p> <p>15 (1). Everyone <u>is equal</u> before the law and has the right to the equal protection and <u>equal benefit</u> of the law without discrimination on the basis of race, national or ethnic origin, colour, religion age or sex.²²</p> <p>(2) This section does not preclude any law, program or</p>

²² “Age or sex” is underlined in pen.

		activity that has as its object the amelioration of conditions of persons or groups <u>that are disadvantaged</u> because of race, national or ethnic origin, colour, religion, age or sex. ²³
Nov. 17, 1980	<u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u>	Same as Nov. 14
Nov. 20, 1980	<u>November 20, 1980: Annex [No Title] Draft</u>	<p><i>"Equality Rights</i></p> <p>15. (1) Everyone <u>is equal</u> before <i>[under]</i> the law and has the right to the equal protection and <u>equal benefit</u> of the law without discrimination on the basis of race, national or ethnic origin, colour, religion or sex.</p> <p>(2) This section does not preclude any law, program or activity that has as its object the amelioration of conditions of persons or groups <u>that are disadvantaged</u> because of race, national or ethnic origin, colour, religion or sex."</p> <p>15. (1) Tous sont égaux devant la loi et ont droit à la même protection et <u>au même bénéfice</u> de la loi, indépendamment de toute distinction fondée sur la race, l'origine nationale ou ethnique, la couleur, la religion ou le sexe.</p> <p>(2) Le présent article n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des personnes et des groupes</p>

²³ "...religion, age or sex" has square brackets around it in pen.

		<p>défavorisés <u>du fait de leur race</u>, de leur origine nationale ou ethnique, de leur couleur, de leur religion ou de leur sexe.</p>
<p>Nov. 21, 1980</p>	<p>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</p>	<p><i>“Equality Rights</i></p> <p>15. (1) Everyone is equal under the law and has the right to the equal protection and equal benefit of the law without discrimination on the basis of²⁴ race, national or ethnic origin, colour, religion or sex.</p> <p>(2) This section does not preclude any law, program or activity that has as its object the amelioration of conditions of persons or groups <u>that are disadvantaged</u> because of ^(*)race, national or ethnic origin, colour, religion or sex.²⁵</p> <p>French is same as Nov. 20.²⁶</p>
<p>Nov. 24, 1980</p>	<p>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</p>	<p>15. (1) Everyone is <u>equal</u> under the law.</p> <p>(2) Everyone has the right to the equal protection and equal benefit of the law without discrimination on the basis of race, national or ethnic origin, colour, religion or sex.</p> <p>(3) Subsection (2) does not preclude any law, program or activity that has as its object the amelioration of conditions of ^[disadvantaged] persons or groups ^[including those persons or groups] <u>that are disadvantaged</u> because of race,</p>

²⁴ The words “...the basis of...” is in square brackets, in pen, with the words written beside it which read, “groups such as”.

²⁵ The asterisk is in pen and then the note with an asterisk is found under which reads “[groups such as]”.

²⁶ The word “devant” is circled in pen with a question mark.

		<p>national or ethnic origin, colour, religion or sex.</p> <p>French same as Nov. 20</p>
<p>Nov. 25, 1980</p>	<p><u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u></p>	<p><i>“Equality Rights</i></p> <p>15. (1) Everyone <u>is equal under</u> the law and has the right to the equal protection and equal benefit of the law] without discrimination^{l,l} on the basis of race, national or ethnic origin, colour, religion or sex ^[or age]</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of <u>disadvantaged</u> persons or groups <u>including</u> those that are disadvantaged because of race, national or ethnic origin, colour, religion or sex.</p> <p>15. (1) Tous sont égaux devant la loi et ont droit à la même protection et <u>au même bénéfice</u> de la loi, indépendamment de toute distinction fondée sur la race, l'origine nationale ou ethnique, la couleur, la religion ou le sexe.</p> <p>(2) Le présent article n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des personnes et des groupes défavorisés, <u>notamment du fait de leur race, de leur origine nationale</u> ou ethnique, de leur couleur, de leur religion ou de leur sexe.</p>

<p>Nov. 28, 1980</p>	<p><u>November 28, 1980: Memorandum from Senior Counsel (Public Law) to E.I. Macdonald Re Section 15 of Charter of Rights:</u></p>	<p>“15 (1) <u>Every individual</u> is equal under the law and has the right to the equal protection and equal benefit of the law without discrimination on the basis of race, national or ethnic origin, colour, religion or sex.</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged <u>individuals</u> or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion or sex.”</p>
<p>Dec. 5, 1980</p>	<p><u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p><i>“Equality Rights</i></p> <p>15. (1) <u>Every individual is equal before</u> and under the law and has the right to the equal protection and equal benefit of the law without discrimination on the basis of race, national or ethnic origin, colour, religion or sex.</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of <u>disadvantaged individuals</u> or groups <u>including</u> those that are disadvantaged because of race, national or ethnic origin, colour, religion or sex.”</p> <p><i>“Droits à l’égalité</i></p> <p>15. (1) <u>La loi ne fait accpetion de personne et s’applique également à tout personne physique et tous</u> ont droit à la même protection et <u>au même benefice</u> de la loi, indépendamment de toute <u>discrimination</u> fondée sur la</p>

		<p>race, l'origine nationale ou ethnique, la couleur, la religion ou [sic] le sexe.</p> <p>(2) Le present article n'a pas pour effet d'interdire les lois, programmes ou activités destines à améliorer la situation des personnes et des groupes défavorisés, notamment <u>du fait de leur race, de leur origine nationale</u> ou ethnique, de leur couleur, de leur religion ou de leur sexe.</p>
<p>Dec. 8, 1980</p>	<p><u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>English Same.</p> <p>“Droits à l'égalité</p> <p>15. (1) <u>La loi ne fait acception de personne et s'applique également à tous et tous ont droit à la même protection et au même benefice</u> de la loi indépendamment de toute <u>discrimination</u> fondée sur la race, l'origine nationale ou ethnique, la couleur, la religion ou le sexe.</p> <p>(2) Le present article n'a pas pour effet d'interdire les lois, programmes ou activités destines à améliorer la situation des <u>individus</u> et des groupes défavorisés, notamment <u>du fait de leur race, de leur origine nationale</u> ou ethnique, de leur couleur, de leur religion ou de leur sexe.</p>
<p>Dec. 11, 1980</p>	<p><u>December 11, 1980: Draft, Memorandum re Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>“15. (1) Every individual is equal before and under the law, and has the right to the equal protection (and equal benefit) of</p>

		<p>the law without (unreasonable) discrimination.</p> <p>(2) A law that discriminates on the basis of race, national or ethnic origin, colour, religion or sex is prima facie unreasonable unless it is necessary to the achievement of a compelling state interest.</p> <p>[(3) A law that discriminates on other bases (such as age, marital status, physical or mental handicap or political belief) is prima facie unreasonable unless it bears a national relationship to a legitimate state interest.]</p> <p>(4) This section does not preclude any distinction, prescribed or authorized by law, based on a proscribed ground of discrimination which is directed to a bona fide amelioration of the conditions of certain specified groups of individuals.”</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u></p>	<p>ALTERNATIVE I (Dec. 5, 10)</p> <p>15.(1) <u>Every individual is equal before and under</u> the law and has the right to the equal protection and equal benefit of the law without discrimination on the basis of sex, race, national or ethnic origin, colour, religion [or age].</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of <u>disadvantaged individuals</u> or groups including those that are</p>

		<p>disadvantaged because of sex, race, national or ethnic origin, colour, religion [or age].</p> <p>VARIANTE I</p> <p>15. (1) La loi ne fait acception de personne et s'applique également à <u>tous et tous ont droit</u> à la même protection et au même bénéfice de la loi indépendamment de toute discrimination fondée sur le sexe, la race, l'origine nationale ou ethnique, la couleur, la religion [ou l'âge].</p> <p>(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des <u>individus</u> et des groupes défavorisés, notamment <u>du fait de leur sexe, de leur race, de leur</u> origine nationale ou ethnique, de leur couleur, de leur religion [ou de leur âge].</p> <p>ALTERNATIVE II Dec. 12)²⁷</p> <p>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 sex, race, national or ethnic origin, colour, religion [or age].</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or</p>
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²⁷ Seem to be underlined in pen. Same for Alternative III.

		<p>groups including those that are disadvantaged because of sex, race, national or ethnic origin, colour, religion [or age].</p> <p>VARIANTE II</p> <p>15. (1) <u>La loi ne fait acception de personne</u> et <u>s'applique également à tous et tous ont droit à la même protection et au même bénéfice</u> de la loi indépendamment de toute <u>discrimination, notamment celle fondée sur le sexe, la race, l'origine nationale ou ethnique, la couleur, la religion [ou l'âge].</u></p> <p>(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des <u>individus</u> et des groupes défavorisés, notamment <u>du fait</u> de leur sexe, de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion [ou de leur âge].</p> <p>ALTERNATIVE III (Dec. 12)</p> <p>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.</p> <p>(2) Every distinction based on sex, race, national or ethnic origin, colour, religion [or age] shall be presumed to be discrimination unless the contrary is shown.</p> <p>(3) Subsection (1) does not preclude any law, program or activity that has as its object the</p>
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		<p>amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of sex, race, national or ethnic origin, colour, religion [or age]</p> <p>VARIANTE III</p> <p>15. (1) <u>La loi s'applique également à tous, sans acception de personne, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute distinction abusive.</u></p> <p>(2) Toute distinction fondée sur le sexe, la race, l'origine nationale ou ethnique, la couleur, la religion [ou l'âge] est, sauf preuve contraire, présumée abusive.</p> <p>(3) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation des <u>individus</u> et des groupes défavorisés, notamment <u>du fait de leur</u> sexe, de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion [ou de leur âge].</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u></p>	<p>ALTERNATIVE I (Dec. 12)</p> <p><i>"Equality Rights</i></p> <p>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 unreasonable ^[discrimination] distinction²⁸.</p>

²⁸ Distinction is underlined in pen.

		<p>(2) Every distinction based on sex, race, national or ethnic origin, colour or religion is presumed to be unreasonable unless the contrary is shown or the distinction is necessary to the achievement of a compelling state interest.²⁹</p> <p>(3) Nothing in this section limits the authority of Parliament or the legislature of a province to authorize any program or activity designed to prevent, eliminate or reduce disadvantages likely to be suffered by or suffered by any group of individuals where those disadvantages would be or are related to any unreasonable basis of distinction among individuals.”³⁰</p> <p>No French</p> <p>ALTERNATIVE II (Dec. 5/10)</p> <p><i>“Equality Rights</i></p> <p>15. (1) <u>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 on the basis of race, national or ethnic origin, colour, religion, sex or age.</u></p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged <u>individuals</u> or groups <u>including</u> those that are disadvantaged because of race,</p>
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²⁹ Both references of “distinction” are underlined, as is “compelling state interest” which also has quotation marks around it in pen.

³⁰ “No” written in pen.

		<p>national or ethnic origin, colour, religion, sex or age.”</p> <p>“Droits à l’égalité</p> <p>15. (1) La loi ne fait <u>acceptation de personne et s’applique également à tous et tous ont droit</u> à la même protection et au même bénéfice de la loi indépendamment de toute discrimination fondée sur la race, l’origine nationale ou ethnique, la couleur, la religion, ou le sexe ou l’âge.</p> <p>(2) Le present article n’a pas pour effet d’interdire les lois, programmes ou activités destines à améliorer la situation des <u>individus</u> et des groupes défavorisés, notamment <u>du fait de leur race, de leur origine nationale</u> ou ethnique, de leur couleur, de leur religion, de leur sexe ou de leur âge.</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Draft [No Title]</u></p>	<p>This is also unchanged from Variant I of Dec. 12 Drafts, Annexes, Copy 1. However, those drafts had age in brackets so we are adding this version here.</p> <p>15.(1) <u>Every individual is equal before and under the law</u> and has the right to the equal protection and equal benefit of the law without discrimination on the basis of sex, race, national or ethnic origin, colour, religion or age.</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of <u>disadvantaged individuals</u> or</p>

		groups <u>including those that are disadvantaged because of sex, race, national or ethnic origin, colour, religion or age.</u>
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Criticism and options going forward for Sec. 15. However, Annex 6 is missing so we can't view alternative draft amendments.
Dec. 17, 1980	<u>December 17, 1980: Draft Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Same as Variant II of Dec. 12 Drafts (Annexes) COPY 1.
Dec. 17, 1980	<u>December 17, 1980: Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	SAME.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	<p>This is also unchanged from Variant II of Dec. 12 Drafts, Annexes, Copy 1. However, those drafts had age in brackets so we are adding this version here. This new version also seems to contain a mistake which has been flagged with a footnote:</p> <p>15. (1) <u>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 sex, race, national or ethnic origin, colour, religion or age.</u></p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of</p>

		<p>the³¹ <u>disadvantaged individuals</u> or groups <u>including those that are disadvantaged because of sex, race, national or ethnic origin, colour, religion or age.</u></p>
<p>Dec. 30, 1980</p>	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>15. <u>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 fondée notamment sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge ou le sexe.</u></p> <p>(2) Le present article n'a pas pour effet d'interdire les lois, programmes ou activités destines à améliorer la situation <u>d'invidius</u> ou de groupes défavorisés, notamment <u>du fait de leur race, de leur origine nationale</u> ou ethnique, de leur couleur, de leur religion, de leur âge ou de leur sexe.</p>
<p>Jan. 9, 1981</p>	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u></p>	<p>Same as Dec. 12, but the ordering of discrimination is different</p> <p>French changes slightly to</p> <p>15. 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 sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe. Ou l'âge.</p>

³¹ The word "the" here seems to be a mistake and is circled in the draft in pen. A question mark is above this clause probably indicating this is an error.

		(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 ou de leur âge.
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	Same as Briefing book
Jan. 21, 1981	<u>January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution:</u>	"That the government not accept the proposal advanced by the PCs, which is too restrictive, but advance an amendment that would ensure that section 15(1) <u>"does not preclude any law, program or activity that has as its object the amelioration of conditions of any class of individuals disadvantaged because of discrimination."</u>
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	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. (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.

		<p>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.</p> <p>(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.</p>
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Further Reading—Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [November 28, 1980: Memorandum from Assistant Deputy Minister \(Public Law\) to Minister of Justice re Newfoundland Denominational Schools and Proposed Constitutional Resolution](#)
- November 28, 1980: [Memorandum for the Prime Minister: Native Peoples and the Constitution](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [March, 19, 1981: Memo from Senior Counsel \(Public Law to Minister via B.L. Strayer\) re Charter Rights Equality for Men and Women](#)

- [October 26, 1981: Memorandum from Eddie Goldenberg to Michael Kirby](#)
- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)
- [October 29, 1981: Memorandum to the Minister, Charter of Rights](#)

Section 16: Official Languages of Canada

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft: French Version</p>	<p>10. (1) English and French are the official languages of Canada, having the status and protection set forth in this Charter.</p> <p>(2) Nothing in this Charter limits the authority of Parliament or of the legislature of a province to extend the status, protection or use of the English and French languages.</p> <p>10. (1) Le français et l'anglais sont les langues officielles du Canada avec le statut et la protection accordés par la présente Charte.</p> <p>(2) La présente Charte n'a pas pour effet de limiter le pouvoir du Parlement et des corps législatifs provinciaux d'améliorer le statut des langues française et anglaise, d'en accentuer la protection ou d'en développer l'usage.</p>
<p>July 16, 1980</p>	<p>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</p>	<p>10. (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.</p> <p>(2) In addition, English and French have the status set forth in this Charter, and nothing therein limits the authority of</p>

		Parliament or a legislature to extend the status or use of the two languages.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	Unchanged. Section (1) has an asterisk, which reads: (* New Brunswick may wish special provision added respecting status of English and French in that province.)
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	18. (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.(*) (2) In addition, English and French have the status set forth in this Charter, which does not limit the authority of Parliament or a legislature to extend the status or use of the two languages or either of them. (* New Brunswick may wish special provision added respecting status of English and French in that province.)
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	n/a "Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document."
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	English unchanged. 16. (1) Le français et l'anglais sont les langues officielles du Canada; elles ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions du Parlement et du gouvernement du Canada.

		(2) D'autre part, le français et l'anglais jouissent du statut qu'accorde la présente Charte, cette dernière ne limite pas le pouvoir du Parlement et des législatures d'améliorer le statut de ces langues ou d'en développer l'usage.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	16.(1) Same in both languages (2) Nothing in this Charter limits the authority of Parliament or a legislature to extend the status or use of English and French or either of those languages. 2) La présente charte ne limite pas le pouvoir du Parlement et des législatures d'améliorer le statut du français et de l'anglais ou de l'une de ces langues, ou d'en développer l'usage.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	Unchanged
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Unchanged: 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. (2) Nothing in this Charter limits the authority of Parliament or a

		<p>legislature to extend the equality of status or use of English and French or either of those languages.</p> <p>16. (1) Le français et l’anglais sont les langues officielles du Canada; elles ont un statut et des droits et privilèges égaux quant a leur usage dans les institutions du Parlement et du gouvernement du Canada.</p> <p>(2) La présente charte ne limite pas le pouvoir du Parlement et des législatures d’améliorer le statut du français et de l’anglais ou de l’une de ces langues, ou d’en développer l’usage.</p>
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“(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.”
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	<p>Eng. is the same.</p> <p>“(2) Le français et l’anglais sont les langues officielles du Nouveau-Brunswick; elles ont un statut et des droits et privileges égaux quant à leur usage dans les institutions de la Législature et du gouvernement du Nouveau-Brunswick.”</p>
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged since Dec. 5 (En)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Unchanged since Dec. 5.
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à</u>	Unchanged since Dec. 8 (French)

	<u>Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	<p>Changed to “advance” instead of “extend” for (3). (1) and (2) remain unchanged.</p> <p>French (3) also changes.</p> <p>(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 ou de l’anglais.</p>
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	<p>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.</p> <p>(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.</p> <p>(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.</p>

Further Reading—Discussions Surrounding Clause:

- [Unknown date. Special Joint Committee Motion re Language Rights in Ontario](#)
- [October 9, 1980: Charter of Rights: Language Rights: Comments by Mr. Max Yalden, Commissioner of Official Languages and Roger Tasse](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)

- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 17: Right of English or French in Debates

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>11. (1) Everyone has the right to use English or French in any of the debates or other proceedings of Parliament.</p> <p>(2) Everyone has the right to use English or French in the debates of the legislative assembly of any province.</p> <p>11. (1) Toute personne a le droit de participer aux débats et procédures du Parlement en français ou en anglais.</p> <p>(2) Toute personne a le droit de participer aux débats des assemblées législatives provinciales en français ou en anglais.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>Unchanged.</p>
<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>Unchanged.</p>
<p>August 8, 1980</p>	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	<p>Unchanged</p>
<p>August 22, 1980</p>	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	<p>19. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.</p> <p>(2) Unchanged.</p>

<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>n/a “Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document.”</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft: French Version</u></p>	<p>English unchanged.</p> <p>17. (1) Toute personne a le droit de participer aux débats et travaux du Parlement en français ou en anglais.</p> <p>(2) Toute personne a le droit de participer aux débats des législatures provinciales en français ou en anglais.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>17. Everyone has the right to use English or French in any debates and other proceedings of Parliament.</p> <p>17. Chacun a le droit d’employer le français ou l’anglais dans le débats et travaux du Parlement.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>English unchanged</p> <p>French:</p> <p>17. Chacun a le droit d’employer la langue officielle de son choix dans le débats et travaux du Parlement</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Unchanged.</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>Unchanged:</p> <p>17. Everyone has the right to use English or French in any debates and other proceedings of Parliament.</p>

		17. Chacun a le droit d'employer la langue officielle de son choix dans le débats et travaux du Parlement
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	"(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick."
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Eng. is the same. "(2) Chacun a le droit d'employer la langue officielle de son choix dans les débats et travaux de la Législature du Nouveau-Brunswick."
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged since Dec. 5 (En)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Unchanged since Dec. 5.
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	Unchanged since Dec. 8 (French)
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	Same as Dec. 8 (French). French still does not have the right phrasing.
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	[French version needs to be confirmed.]

Further Reading—Discussions Surrounding Clause:

- Unknown date. [Special Joint Committee Motion re Language Rights in Ontario](#)

- [October 9, 1980: Charter of Rights: Language Rights: Comments by Mr. Max Yalden, Commissioner of Official Languages and Roger Tasse](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Section 18: Statutes & Records in English & French

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft: French Version</u></p>	<p>12. (1) The statutes and the records and journals of Parliament shall be printed and published in English and French.</p> <p>(2) The statutes and the records and journals of the legislatures of Ontario, Quebec, New Brunswick and Manitoba shall be printed and published in English and French.</p> <p>(3) The statutes and the records and journals of the legislature of each province not referred to in subsection (2) shall be printed and published in English and French to the greatest extent practicable accordingly as the legislature of the province prescribes.</p> <p>(4) Where the statutes of any legislative body described in any of subsections (1) to (3) are printed and published in English and French, both language versions are equally authoritative.</p>
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		<p>[...]</p> <p>23. A legislature of a province may, by resolution, declare that any part of sections 12 and 13 that do not expressly apply to that province shall have application, and thereafter such part or parts shall apply to that province in the same terms as to any province expressly named therein.</p> <p>12. (1) Les lois, les archives, les comptes rendus et les procès-verbaux du Parlement sont imprimés et publiés en français et en anglais.</p> <p>(2) Les lois, les archives, les comptes rendus et les procès-verbaux des corps législatifs de l'Ontario, du Québec, du Nouveau-Brunswick et du Manitoba sont imprimés et publiés en français et en anglais.</p> <p>(3) Les lois, les archives, les comptes rendus et les procès-verbaux des corps législatifs des provinces non mentionnés dans le paragraphe (2) sont imprimés et publiés en français et en anglais dans toute la mesure du possible, détermine par chacun de ces corps législatifs.</p> <p>(4) Les versions française et anglaise des lois des organes législatifs imprimées et publiées conformément au présent article ont la meme valeur.</p> <p>[...]</p> <p>23. Le corps législatif d'une province peut, par résolution,</p>
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		décréter l'application a la province de toute disposition des articles 12 et 13 qui ne lui est pas expressément applicable et qui le devient en conséquence de la même manière qu'1 une province mentionnée expressément.
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	Unchanged. Clause re other provinces applying it changes, however: 23. A legislature of a province to which subsections 12(2) and 13(2) do not expressly apply may declare that one or both of these subsections shall have application, and thereafter any such provision shall apply to that province in the same terms as to any province expressly named therein.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	Unchanged.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Same, but 95.38 (Sec. 31 in the Aug. 5 draft) contains the following note (2) See transitional for alternative to this section. Should it be in Charter or transitional?
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	20. (1) The statutes, records and journals of Parliament shall be printed and published in English and French. (2) The statutes, records and journals of the legislatures of Ontario, Quebec, New Brunswick and Manitoba shall be printed and published in English and French.

		<p>(3) The statutes, records and journals of the legislature of each province not referred to in subsection (2) shall be printed and published in English and French to the greatest extent practicable accordingly as the legislature of the province prescribes.</p> <p>(4) Where the statutes of Parliament or a provincial legislature are printed and published in English and French, both language versions are equally authoritative.</p>
<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>n/a “Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document.”</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft: French Version</u></p>	<p>English unchanged.</p> <p>[...]</p> <p>29. A legislature of a province to which subsections 18(2) and 19(2) do not expressly apply may declare that one or both of those subsections shall have application, and thereafter any such provision shall apply to that province in the same terms as to any province expressly named therein.</p> <p>18. (1) Les lois, les archives, les comptes rendus et les procès-verbaux du Parlement sont impri[més] et publiés en français et en anglais.</p> <p>(2) Les lois, les archives, les comptes rendus et les procès-verbaux des législatures de l’Ontario, du Québec, du Nouveau-Brunswick et du</p>

		<p>Manitoba sont imprimés et publiés en français et en anglais.</p> <p>(3) Les lois, les archives, les comptes rendus et les procès-verbaux des législatures des provinces non mentionnées dans le paragraphe (2) sont imprimés et publiés en français et en anglais dans toute la mesure du possible, conformément à ce qui est prévu par chacune de ces législatures.</p> <p>(4) Les versions française et anglaise des lois du Parlement et des législatures imprimées et publiées conformément au présent article font également foi.</p> <p>[...]</p> <p>29. La législature d'une province où les paragraphes 18(2) et 19(2) ne sont pas expressément applicables, peut déclarer qu'à l'avenir ces paragraphes ou l'un deux seront applicables à la province comme si elle y était expressément désignée.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>18. The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.</p> <p>18. 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 faisant également foi.</p>

October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	English unchanged. French : 18. 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.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Unchanged: 18. The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative. 18. 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.
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“(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.”
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from</u>	Eng. is the same.

	<u>the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“(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.”
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged since Dec. 5 (En)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Unchanged since Dec. 5.
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	Unchanged since Dec. 8 (French)
Jan. 1981	Briefing Book/SJC	English finalized wording from Dec. 5 and French from Dec. 8

Further Reading—Discussions Surrounding Clause:

- Unknown date. [Special Joint Committee Motion re Language Rights in Ontario](#)
- [October 9, 1980: Charter of Rights: Language Rights: Comments by Mr. Max Yalden, Commissioner of Official Languages and Roger Tasse](#)
- [October 21, 1980: Memo from Deputy Minister of Justice to Michael Kirby re Charter of Rights – Language Rights \(inc. briefing notes\)](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Section 19: Rights to English or French in Courts

<p>July 4, 1980</p>	<p style="text-align: center;"><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft: French Version</u></p>	<p>13. (1) Either English or French may be used by any person in, or in any pleading or process in or issuing from, the Supreme Court of Canada or any court constituted by Parliament.</p> <p>(2) Either English or French may be used by any person in, or in any pleading or process in or issuing from, any court of Ontario, Quebec, New Brunswick and Manitoba.</p> <p>(3) Either English or French may be used by any person in, or in any pleading or process in or issuing from, any court of a province not referred to in subsection (2), to the greatest extent practicable accordingly as the legislature of the province prescribes.</p> <p>(4) In proceedings in any court in Canada relating to an offence</p> <p>a) created by or pursuant to an Act of Parliament, or</p> <p>b) created by or pursuant to an Act of the legislature of a province if the punishment for the offence may be imprisonment,</p> <p>any person giving evidence before the court has the right to be heard in English or French, through the services of an interpreter where necessary, and the right not to be placed at a disadvantage is so being heard.</p> <p>(5) Nothing in this section precludes the application of such rules as may be prescribed</p>
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		<p>by any competent body or authority for the orderly implementation and operation of this section.</p> <p>[...]</p> <p>23. A legislature of a province may, by resolution, declare that any part of sections 12 and 13 that do not expressly apply to that province shall have application, and thereafter such part or parts shall apply to that province in the same terms as to any province expressly named therein.</p> <p>13. (1) Toute personne a le droit d'utiliser le français ou l'anglais devant la Cour suprême du Canada et les cours établies par le Parlement ainsi que dans les procédures et documents de ces cours.</p> <p>(2) Toute personne a le droit d'utiliser le français ou l'anglais devant les cours de l'Ontario, du Québec, du Nouveau-Brunswick et du Manitoba et dans les procédures et documents de ces cours.</p> <p>(3) Toute personne a, dans toute la mesure du possible détermine par le corps législatif de chacune des provinces non mentionnés dans le paragraphe (2), le droit d'utiliser le français ou l'anglais devant les cours de ces provinces et dans les procédures et documents de ces cours.</p>
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		<p>(4) Toute appelé à témoigner devant personne d'utiliser le français ou une cour au Canada a le droit si nécessaire, et le droit l'anglais avec un interprète de ne pas être défavorisé en conséquence,</p> <p>(a) dans les procédures consécutives à une infraction créée par une loi du Parlement, ou</p> <p>(b) dans les procédures consécutives à une infraction créée par une loi d'un corps législatif provincial et passible d'une peine d'emprisonnement.</p> <p>(5) Nulle disposition du présent article n'a pour effet d'interdire l'application des règles établies par l'autorité compétente pour la mise en œuvre du présent article.</p> <p>[...]</p> <p>23. Le corps législatif d'une province peut, par résolution, décréter l'application à la province de toute disposition des articles 12 et 13 qui ne lui est pas expressément applicable et qui le devient en conséquence de la même manière qu'une province mentionnée expressément.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>Unchanged.</p> <p>Provinces may declare changes:</p> <p>23. A legislature of a province to which subsections 12(2) and 13(2) do not expressly apply may declare that one or both of these subsections shall have application, and thereafter any such provision shall apply to</p>

		that province in the same terms as to any province expressly named therein.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	Same, except subsection (4): (4) Nothing in this section precludes the application of such rules as may be prescribed for the orderly implementation and operation of this section.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Same, but 95.38 (Sec. 31 in the Aug. 5 draft) contains the following note (2) See transitional for alternative to this section. Should it be in Charter or transitional?
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	21. (1) Either English or French may be used by any person in, or in any pleading or process in or issuing from, the Supreme Court of Canada or any court established by Parliament. (2) Either English or French may be used by any person in, or in any pleading or process in or issuing from, any court of Ontario, Quebec, New Brunswick or Manitoba. (3) Either English or French may be used by any person in, or in any pleading or process in or issuing from, any court of a province not referred to in subsection (2), to the greatest extent practicable accordingly as the legislature prescribes. (4) Nothing in this section precludes the making of such rules by any competent body or authority for the orderly

		<p>implementation and operation of this section.</p> <p>[...]</p> <p>31. Same as previous, (provinces may declare change)</p>
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	n/a "Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document."
September 3, 1980	<p><u>September 3, 1980: Revised Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>English Same</p> <p>19. (1) Toute personne a le droit d'utiliser le français ou l'anglais devant la Cour suprême du Canada et les cours établies par le Parlement ainsi que dans les procédures et documents de ces cours.</p> <p>(2) Toute personne a le droit d'utiliser le français ou l'anglais devant les cours de l'Ontario, du Québec, du Nouveau-Brunswick et du Manitoba et dans les procédures et documents de ces cours.</p> <p>(3) Toute personne a, dans toute la mesure du possible conformément à ce qui est prévu par la législature de chacune des provinces non mentionnées dans le paragraphe (2), le droit d'utiliser le français ou l'anglais devant les cours de ces provinces et dans les procédures et documents de ces cours.</p> <p>(4) Le présent article n'a pour effet d'interdire aux autorités compétentes d'établir des règles pour la mise en oeuvre du présent article.</p>

		<p>[...]</p> <p>29. La législature d'une province où les paragraphes 18(2) et 19(2) ne sont pas expressément applicables, peut déclarer qu'à l'avenir ces paragraphes ou l'un deux seront applicables à la province comme si elle y était expressément désignée.</p>
September 24, 1980	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>19. 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.</p> <p>19. Chacun a le droit d'employer le français ou l'anglais dans toute procédure devant les tribunaux établis par le Parlement.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>English same</p> <p>French change :</p> <p>19. Chacun a le droit d'employer la langue officielle de son choix dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Unchanged</p>
Oct. 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>Unchanged:</p> <p>19. Either English or French may be used by any person in, or in any pleading in or process</p>

		<p>issuing from, any court established by Parliament.</p> <p>19. Chacun a le droit d'employer la langue officielle de son choix dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent.</p>
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	"(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by the legislature of New Brunswick."
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	<p>Eng. is the same.</p> <p>"(2) Chacun a le droit d'employer la langue officielle de son choix dans toutes les affaires dont sont saisis les tribunaux établis par la Législature du Nouveau-Brunswick et dans tous les actes de procédure qui en découlent."</p>
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged since Dec. 5 (En)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Unchanged since Dec. 5.
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	Unchanged since Dec. 8 (French)
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	(2) changed to "any court of New Brunswick"

		<p>(2) changed to “tribunaux du Nouveau-Brunswick” so it now reads:</p> <p>(2) Chacun a le droit d’employer la langue officielle de son choix dans toutes les affaires dont sont saisis les tribunaux du Nouveau-Brunswick et dans tous les actes de procédure qui en découlent.</p>
Jan. 12, 1981	<p><u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u></p>	<p>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.</p> <p>(2) Either English or French may be used by any person in, or any pleading in or process issuing from, any court of New Brunswick.</p> <p>[Full French to be confirmed]</p>

Further Reading – Discussions Surrounding Clause:

- [October 9, 1980: Charter of Rights: Language Rights: Comments by Mr. Max Yalden, Commissioner of Official Languages and Roger Tasse](#)
- [October 21, 1980: Memo from Deputy Minister of Justice to Michael Kirby re Charter of Rights – Language Rights \(inc. briefing notes\)](#)
- **Unknown date.** [Special Joint Committee Motion re Language Rights in Ontario](#)
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Section 20: Right to Services in English & French

July 4, 1980	<p><u>July 4, 1980: Continuing Committee of Ministers on the</u></p>	<p>14. (1) Any member of the public in Canada has the right to</p>
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	<p style="text-align: center;"><u>Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p style="text-align: center;"><u>French Version</u></p>	<p>communicate with and to receive services from any head or central office of an institution of government of Canada in English or French, and has the same right with respect to any other principal office of any such institution where that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language.</p> <p>(2) Any member of the public in a province has the right to communicate with and to receive services from any head, central or other principal office of an institution of government of the province in English or French to the extent to which and in the areas of the province in which it is determined, in such manner as may be prescribed or authorized by the legislature of the province, that the right should pertain having regard to the practicability and necessity of providing such services.</p> <p>14. (1) Toute personne au Canada a, en tant que membre du public, le droit de communiquer en français ou en anglais avec le siège de toute institution du gouvernement du Canada et de recevoir de lui des services en français ou en anglais; elle a le même droit à l'égard de tout bureau principal de ces institutions situe dans une région où il est reconnu, conformément aux modalités</p>
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		<p>prévues ou autorisées par le Parlement, qu'un nombre important de personnes dans la population emploie cette langue.</p> <p>(2) Toute personne a, dans une province, en tant que membre du public, le droit de communiquer en français ou en anglais avec le siège ou un bureau principal de toute institution du gouvernement de la province et de recevoir d'eux des services en français ou en anglais, dans la mesure où et dans les régions de la province où, conformément aux modalités prévues ou autorisées par le corps législatif provincial, il est déterminé que ce droit doit être accordé pour le motif qu'il est possible et nécessaire de services.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>14. (1) is unchanged.</p> <p>(2) Any member of the public in a province has the right to communicate with and to receive services from any head, central or other principal office of an institution of government of the province in English or French to the extent to which and in the areas of the province in which it is determined, in such manner as may be prescribed or authorized by the legislature, that the right should pertain having regard to the practicability and necessity of providing such services.</p>
<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>22. (1) Any member of the public in Canada has the right to communicate with and to receive services from any head or central office of an institution</p>

		<p>of government of Canada in English or French, and has the same right with respect to any other office of any such institution where that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language.</p> <p>(2) Any member of the public in a province has the right to communicate with and to receive services from any head, central or principal office of an institution of government of the province in English or French to the greatest extent practicable accordingly as the legislature prescribes. (*)</p> <p>(* New Brunswick may wish special provision added respecting language of services to the public.)</p>
<p>August 8, 1980</p>	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	<p>Unchanged</p>
<p>August 22, 1980</p>	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	<p>22. (1) Any member of the public in Canada has the right to communicate with and to receive 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 that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial</p>

		<p>number of persons within the population use that language.</p> <p>(2) Any member of the public in a province has the right to communicate with and to receive services from any head, central or principal office of an institution of the legislature or government of the province in English or French to the greatest extent practicable accordingly as the legislature prescribes.(*)</p> <p>(* New Brunswick may wish special provision added respecting language of services to the public.)</p>
<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>n/a "Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document."</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft: French Version</u></p>	<p>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 that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language.</p> <p>(2) Any member of the public in a province has the right to communicate with and to receive available services from any head, central or principal</p>

		<p>office of an institution of the legislature or government of the province in English or French to the greatest extent practicable accordingly as the legislature prescribes.</p> <p>20. (1) Toute personne au Canada a, en tant que membre du public, le droit de communiquer en français ou en anglais avec le siège des institutions du Parlement ou du gouvernement du Canada et de recevoir en français ou en anglais les services qu'il offre; elle a le même droit à l'égard de toute autre bureau de ces institutions situé dans une région où il est reconnu, conformément aux modalités prévues ou autorisées par le Parlement, qu'une partie importante de la population emploie cette langue.</p> <p>(2) Toute personne a, dans toute province, en tant que membre du public, le droit de communiquer en français ou en anglais avec le siège ou un bureau principal de toute institution de la législature ou du gouvernement de la province et de recevoir en français ou en anglais, les services qu'il offre, dans toute la mesure du possible, conformément à ce qui est prévu par la législature.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>20. 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, as he or she</p>

		<p>may choose, and has the same right with respect to any other office of any such institution where that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language.</p> <p>20. Chacun a, au Canada, a titre prive, droit à l'emploi de la langue officielle de son choix 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 situe dans une région du Canada ou il est reconnue, conformément aux modalités prévues ou autorisées par le Parlement, qu'une partie importante de la population emploie la langue qu'il a choisie.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>Unchanged</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Unchanged</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>Unchanged:</p> <p>20. Any member of the public in Canada has the right to communicate with, and to receive available services from,</p>

		<p>any head or central office of an institution of the Parliament or government of Canada in English or French, as he or she may choose, and has the same right with respect to any other office of any such institution where that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language.</p> <p>20. Chacun a, au Canada, a titre prive, droit à l'emploi de la langue officielle de son choix 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 situe dans une région du Canada ou il est reconnue, conformément aux modalités prévues ou autorisées par le Parlement, qu'une partie importante de la population emploie la langue qu'il a choisie.</p>
<p>Nov. 3, 1980</p>	<p><u>November 3, 1980: Loose, Annex-Style Draft</u></p>	<p>"20. 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 either official language, and has the same right with respect to any other office of any such institution where it is determined, in such manner as may be prescribed or authorized by Parliament, that there is a</p>

		significant demand for communications with and services from that office in both official languages."
Nov. 10, 1980	<u>November 10, 1980: Amendments to Proposed Resolution:</u>	"...where there is a substantial demand for communications and services in both official languages."
Nov. 12, 1980	<u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u>	Drop "as he or she may choose" on line 35. Other policy change to be drafted by Edythe. In the French version 20. Le public a, au Canada, droit a l'emploi
Nov. 14, 1980	<u>November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:</u>	Same as Nov. 3 draft (found stapled to Oct. 31)
Nov. 17, 1980	<u>November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:</u>	20. 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 it is determined, in such manner as may be prescribed or authorized by Parliament, that there is a significant demand for communications with and services from that office in both English and French.
Nov. 20, 1980	<u>November 20, 1980: Annex [No Title] Draft</u>	English same as Nov. 17 French:

		20. <u>Le public</u> a, au Canada, droit à l'emploi de l'une ou l'autre langue officielle 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 bureau de ces institutions <u>dans le cas</u> où il est reconnu, conformément aux modalités prévues ou autorisées par le Parlement, que l'emploi <u>des deux</u> langues officielles pour communiquer avec ce bureau ou pour en recevoir les services fait l'objet d'une demande importante."
Nov. 21, 1980	<u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u>	English same as Nov. 17 French same as Nov. 20
Nov. 24, 1980	<u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	English same as Nov. 17 20. <u>Le public</u> a, au Canada, droit à l'emploi <u>du français ou de l'anglais</u> 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 bureau de ces institutions <u>dans le cas</u> où il est reconnu, conformément aux modalités prévues ou autorisées par le Parlement, que <u>l'emploi tant du</u> français que de l'anglais pour communiquer avec ce bureau ou pour en recevoir les services fait l'objet d'une demande importante.
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated</u>	Same.

	<u>November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“(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.”
Dec. 8, 1980	<u>December 8, 1980: Addendum to Memorandum to Ministers Dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Eng. is the same. (2) Chacun a droit au Nouveau-Brunswick à l’emploi du français ou de l’anglais pour communiquer avec l’administration des institutions de la Législature ou du gouvernement du Nouveau-Brunswick ou pour en recevoir les services.
Dec. 11, 1980	<u>December 11, 1980: Draft, Memorandum re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Missing Draft Annex 2.
Dec. 12, 1980	<u>December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“Thus the latter part of section 20 would provide for two situations: (a) services and communications in both languages from any other office where there is a significant demand, and (b) services and communications in both languages from any office or facility that serves members of the travelling public.”

<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u></p>	<p>20. 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 there is a significant demand for, or it is reasonable to require that there be, communications with and services from that office in both English and French.</p> <p>20. <u>Le public a, au Canada, droit à l'emploi du français ou de l'anglais</u> 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 <u>là où l'emploi</u> tant du français que de l'anglais pour communiquer avec ce bureau ou pour en recevoir les services fait l'objet d'une demande importante ou justifiable.</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u></p>	<p>"20. 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 or facility of any such institution where there is a reasonable requirement for communications with and services from that office or</p>

		<p>facility in both English and French or the office or facility serves members of the travelling public.”</p> <p>“20. <u>Le public</u> a, au Canada, droit à l’emploi <u>du français ou de l’anglais</u> pour communique avec le siege 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 institution <u>là où l’emploi</u> tant du français que de l’anglais pour communiquer avec ce bureau ou pour en recevoir les services fait l’objet d’une demande importante.”</p>
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Same as Dec. 12, Copy 1 Annexes.
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Change “significant demand” to “reasonable requirement”. Annex 7, however, is missing.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	<p>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</p> <p>(a) there is significant demand for communications with and services from that office in both English and French; or</p>

		<p>(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.</p> <p>(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.</p>
<p>Dec. 30, 1980</p>	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>20. (1) <u>Le public a, au Canada, droit à l'emploi du français ou de l'anglais</u> 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 l'emploi tant du français que de l'anglais pour communiquer avec ce bureau ou pour en recevoir les services:</p> <p>a) fait l'objet d'une demande importante;</p> <p>b) se justifie par la vocation du bureau.</p> <p>(2) Chacun a droit au Nouveau-Brunswick à l'emploi du français ou de l'anglais pour communiquer avec l'administration des institutions de la Législature ou du gouvernement du Nouveau-Brunswick ou pour en recevoir les services.</p>
<p>Jan. 9, 1981</p>	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause</u></p>	<p>(a) changed to "in such language"</p>

	<p style="text-align: center;"><u>Consideration of the Resolution:</u></p>	<p>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</p> <p>(a) there is a significant demand for communications with and services from that office in such language; or</p> <p>(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.</p> <p>(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.</p> <p>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 :</p>
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		<p>a) l’emploi du français ou de l’anglais fait l’objet d’une demande importante;</p> <p>b) l’emploi du français et de l’anglais se justifie par la vocation du bureau.</p> <p>(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.</p>
Jan. 12, 1981	January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:	Same.

Further Reading—Discussions Surrounding Clause:

- **Unknown date.** [Special Joint Committee Motion re Language Rights in Ontario](#)
- [October 9, 1980: Charter of Rights: Language Rights: Comments by Mr. Max Yalden, Commissioner of Official Languages and Roger Tasse](#)
- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution](#)
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Section 21: Existing Language Rights

July 4, 1980	July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and	22. Nothing in sections 11 to 13 abrogates or derogates from any right, privilege or obligation with respect to the English and
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	<p><u>Freedom within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada. (1)</p> <p>(1) This provisions has application until such time as specific provisions in the present Constitution may be repealed.</p> <p>22. Les articles 11 a 13 n’ont pas pour effet de porter atteinte aux droits, privilèges ou obligations relatifs à la langue française ou anglaise, ou aces deux langues, qui existent ou sont maintenus aux termes d’une autre disposition de la Constitution du Canada. (1)</p> <p><u>NOTE</u>: (1) Cette disposition s’applique jusqu’à ce que certaines dispositions de la Constitution actuelle puissent être abrogées.</p>
July 16, 1980	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	Unchanged.
August 5, 1980	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>30. Unchanged. Note accompanying provision changes slightly:</p> <p>(* Transitional provisions will be required for repeal of these provisions at an appropriate time.)</p>
August 8, 1980	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	Unchanged
August 22, 1980	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	Unchanged
August 28, 1980	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	n/a “Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document.”

<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft: French Version</u></p>	<p>English unchanged.</p> <p>28. Les articles 17 à 19 n’ont pas pour effet de porter atteinte aux droits, privilèges ou obligations relatifs à la langue française ou anglaise, ou à ces deux langues, qui existent ou sont maintenus aux termes d’une autre disposition de la Constitution du Canada. (1)</p> <p>NOTE : (1) Cette disposition s’applique jusqu’à ce que certaines dispositions de la Constitution actuelle puissent - être abrogées</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>English unchanged, except for the numeration (sections 16-19).</p> <p>French:</p> <p>28. Les articles 16 à 29 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.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>Unchanged except it reads (16-20 in both languages)</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>Unchanged</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen</u></p>	<p>Unchanged</p> <p>21. Nothing in sections 16 to 20 abrogates or derogates from any</p>

	<u>respecting the Constitution of Canada</u>	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. 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.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged. This version contains a typo and instead of “either of them” says “either of the”. The word the is crossed out and “them” is added in pencil.
Jan. 1981	<u>Briefing/SIC</u>	Unchanged

Further Reading—Discussions Surrounding Clause:

- [October 9, 1980: Charter of Rights: Language Rights: Comments by Mr. Max Yalden, Commissioner of Official Languages and Roger Tasse](#)

Section 22: Existing Language Rights (Non Eng./Fr.)³²

July 4, 1980	<u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u> <u>French Version</u>	15. Nothing in sections 10 to 14 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the commencement of this Charter with respect to any language that is not English or French. 15. Les articles 10 à 14 n’ont pas pour effet de porter atteinte aux droits et privilèges passés ou futurs des langues autres que le
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³² There is an attempt to make the multiculturalism clause an amended version of Section 22, but it has been placed in the Multiculturalism section of this table (Section 27).

		français ou l’anglais découlant de la loi ou de la coutume.
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	Unchanged.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	Unchanged.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	n/a “Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document.”
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	English unchanged. French: 21. 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, des langues autres que le français ou l’anglais, découlant de la loi ou de la coutume.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	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. 21. 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 des langues découlant de la loi ou de la coutume, des langues

		autres que le français ou l'anglais.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	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
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Unchanged: 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. 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.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged since Oct. 2.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Unchanged since Oct. 2 (English)

Section 23: Minority Language Educational Rights

<p>July 4, 1980</p>	<p style="text-align: center;"> <u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u> <u>French Version</u> </p>	<p>16. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their educational instruction in their minority language at the primary and secondary level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.</p> <p>(2) In each province, the legislature. may enact provisions for determining where the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area is sufficient to warrant the provision out of public funds of minority language education facilities in that area.</p> <p>15. (1) Les citoyens canadiens habitant une province et qui font partie de la minorité anglophone ou francophone de la province ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité lorsque le nombre de ces enfants dans une région de la province justifie que soient mises à leur disposition, au moyen de fonds publics, des installations d'enseignement dans la langue minoritaire dans cette région.</p>
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		<p>(2) Afin de mettre en œuvre le droit prévu au paragraphe (1), le corps législatif de chaque province peut adopter des mesures relatives à la façon de déterminer si le nombre d'enfants des citoyens canadiens qui font partie de la minorité anglophone ou francophone dans une région de la province justifie que soient mises à leur disposition, au moyen de fonds publics, des installations d'enseignement dans la langue minoritaire dans cette région.</p>
<p>July 16, 1980</p>	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>16. (1) Citizens of Canada in a province whose primarily spoken language (mother tongue?), whether English or French, is that of the linguistic minority population of that province have a right to have their children receive their education in that language at the primary and secondary school level wherever the number of such children resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.</p> <p>(2) In each province the legislature may enact laws to render effective the rights provided in subsection (1).</p>
<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>24. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school level wherever the number of children of such</p>

		<p>citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.</p> <p>(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.</p>
<p>August 8, 1980</p>	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	<p>Unchanged</p>
<p>August 13, 1980</p>	<p><u>August 13, 1980: Draft Memo from Deputy Minister of Justice to Prime Minister re Charter of Rights – Language of Education</u></p>	<p>“24. (1) Parents (resident in a province) whose mother tongue is that of the English or French linguistic minority population of that ^{[a?] province} <small>[in which they have reside]</small> have a right to have their children receive their primary and secondary school instruction in that minority language whenever the number of such children resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.</p> <p>(2) In each province the legislature may enact laws to implement the right provided in subsection (1).</p> <p>(3) For the purposes of this section “mother tongue” means</p>

		<p>the first language learned and still understood.”</p> <p>[...]</p> <p>“X. Notwithstanding Section 24, the laws of the province of Quebec respecting the language of educational instruction shall continue to have full force and effect for a period not exceeding (five or ten years) from the date on which this Charter comes into force.”</p>
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Returns to Aug. 5 wording.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	n/a “Sections 18-24 and 30 and 32 of the Federal August 22, 1980 Draft would be sections 13-21 if included in this document.”
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	<p>Slight changes to subsection (1). (2) is unchanged:</p> <p>22. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school levels wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for</p>

		<p>determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>22 (1) Les citoyens canadiens qui font partie de la minorité anglophone ou francophone de la province où ils habitent ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité lorsque le nombre de ces enfants dans une région de la province justifie que soient mises a leur disposition, au moyen de fonds publics des installations d'enseignement dans la langue minoritaire dans cette région.</p> <p>(2) Les législatures de chaque province peuvent, afin de donner effet au droit qu'accorde le paragraphe (1) adopter des mesures pour déterminer si le nombre d'enfants des citoyens canadiens qui font partie de la minorité anglophone ou francophone dans une région de la province justifie que soient mises à leur dispositions, au moyen de fonds publics, des installations d'enseignement dans la langue minoritaire dans cette région.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>22.(1) Citizens of Canada whose mother tongue is that of the English or French linguistic minority population of the province in which they reside</p>

		<p>have the right to have their children receive their primary and secondary school instruction in the minority language where they reside in an area in the province in which the number of those children is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>(2) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that same language if the number of children of citizens resident in the area of the province to which the citizen has moved, who have a right recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>(3) For the purposes of this section, “mother tongue” means the first language learned and still understood.</p> <p>22. (1) Les citoyens canadiens dont la langue maternelle est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité</p>
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		<p>dans toute région de la province où le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.</p> <p>(2) Le citoyen canadien qui change de résidence d'une province à une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire, dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence où le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds public, d'installations d'enseignement dans cette langue.</p> <p>(3) Pour l'application du présent article, on entend par « langue maternelle » la première langue apprise et encore comprise.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>23. (1) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in that minority language if they reside in an area of the province in which the number of children of such citizens is sufficient to warrant the provision out of</p>

		<p>public funds of minority language educational facilities in that area.</p> <p>(2) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that same language if the number of children of citizens resident in the area of the province to which the citizen has moved, who have a right recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>23. (1) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province ou le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.</p> <p>(2) Le citoyen canadien qui change de résidence d'une province à une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire,</p>
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		<p>dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence ou le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>23. (1) Citizens of Canada <i>[and permanent residents]</i> whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in that minority language if they reside in an area of the province in which the number of children of such citizens is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>(2) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that same language if the number of children of citizens resident in the area of the province to which the citizen has moved, who have a right</p>

		<p>recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>French unchanged</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>Same as Version 1:</p> <p>23. (1) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in that minority language if they reside in an area of the province in which the number of children of such citizens is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>(2) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that same language if the number of children of citizens resident in the area of the province to which the citizen has moved, who have a right recognized by this section, is sufficient to warrant the provision out of public funds of</p>

		<p>minority language educational facilities in that area.</p> <p>23. (1) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province ou le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.</p> <p>(2) Le citoyen canadien qui change de résidence d'une province à une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire, dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence ou le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.</p>
<p>Oct. 31, 1980</p>	<p><u>October 31, 1980: Principles of Minority Language Education</u></p>	<p>Right of Canadian citizens to have their children receive their primary and secondary school instruction in the minority language, whether English or French, of the province in which they reside if</p>

		<p>(a) the first language learned and still understood of one of the parents is that of the English or French linguistic minority population of the province in which they reside</p> <p>or</p> <p>(b) one of the parents has received his or her primary (or secondary?) school instruction in Canada in the minority language, whether English or French, of the province in which they reside</p> <p>and</p> <p>they reside in an area of the province in which the number of children of such citizens is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p> <p>2. Right of Canadian citizens who, at the time of coming into force of the Charter, have one or more of their children receiving his or her primary or secondary school instruction in either English or French to have any or all of their children receive their primary or secondary school instruction in that same language if the number of children of citizens resident in the area of the province who have the right to educational instruction in that language is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p>
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		<p>3. Right of a Canadian citizen who changes residence from one province to another and, prior to the change, has any child receiving primary or secondary school instruction in either English or French, to have any or all of his or her children receive their primary and secondary school instruction in the same language if the number of children of citizens resident in the area of the province to which the citizen has moved, who have a right to educational instruction in that language is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p>
<p>Nov. 7, 1980</p>	<p><u>Memo from Jean-Claude Malépart incl. Suggestions re Section 23</u></p>	<p>Langue d’instruction</p> <p>1. Les citoyens canadiens <u>qui ont reçu au Canada l’enseignement primaire ou secondaire</u> dans la langue de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire ou secondaire, dans la langue de la minorité dans toute la région de la province où le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d’installations d’enseignement dans cette langue.</p> <p>2. Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence <u>et qui n’ont pas pu recevoir au Canada l’enseignement, primaire ou</u></p>

		<p><u>secondaire, dans la langue française ou anglaise, dû au fait qu'il n'existait pas dans leur province de résidence un système facile d'accès, ont le droit de faire instruire leurs enfants, aux niveau primaire et secondaire, dans la langue de la minorité dans toute région de la province où le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.</u></p> <p>Continuité d'emploi de la langue d'instruction</p> <p>3. Propositions de l'article 23 (2) – texte intégral</p>
<p>Nov. 12, 1980</p>	<p><u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u></p>	<p>Eliminate "his or her" on line 31.</p> <p>Change line 34 to "any or all of the children of that citizen receive their"</p>
<p>Nov. 24, 1980</p>	<p><u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u></p>	<p>23. (1) Citizens of Canada, who have received their primary school instruction in English or French in Canada, and who reside in a province in which the language of that instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in that language.</p> <p>(2) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right</p>

		<p>to have their children receive primary and secondary school instruction in that province in that language.</p> <p>(3) Citizens of Canada of whom one child has received 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 that language.</p>
<p>Nov. 24</p>	<p>November 24, 1980: Section 23, Standalone Drafts: Copy 1</p>	<p>23. (1) Citizens of Canada, who have received their primary or secondary school instruction in English or French in Canada, and who reside in a province in which their language of instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in their language of instruction.</p> <p>(2) Citizens of Canada who do not meet the language of instruction prerequisite of subsection (1) but whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province if they can establish that public educational facilities in that language were not available to enable them to receive their public or secondary</p>

		<p>school education in that language.</p> <p>(3) Citizens of Canada of whom one child has received 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.</p> <p>(4) The right^[s] of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens having ^[such] that ^[a] right is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.</p>
<p>Nov. 24</p>	<p><u>November 24, 1980: Section 23, Standalone Drafts: Copy 2</u></p>	<p>23. (1) Citizens of Canada, who have received their primary or secondary school instruction in English or French in Canada, and who reside in a province in which their language of instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in their language of instruction.</p> <p>(2) Citizens of Canada who do not meet the language of instruction prerequisite of subsection (1) but whose first language learned and still</p>

		<p>understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province if they can establish that public educational facilities in that language were not available to enable them to receive their public or secondary school education in that language.</p> <p>(3) Citizens of Canada of whom one child has received 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.</p> <p>(4) The right^[s] of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens having ^[such] that ^[a] right is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.³³</p>
<p>Nov. 25, 1980</p>	<p><u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u></p>	<p>English Same.</p> <p>23. (1) Les citoyens canadiens <u>qui ont reçu leur</u> instruction, au niveau primaire, en français ou en anglais au Canada et qui</p>

³³ The word “No” is written in column next to subsection (4).

		<p>résident dans une province où la langue d'instruction est, à ce niveau, celle de la minorité linguistique française ou anglaise de la province ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.</p> <p>(2) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.</p> <p>(3) 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.</p>
<p>Dec. 11, 1980</p>	<p><u>December 11, 1980: Draft, Memorandum re Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>Missing Draft Annex 3.</p> <p>Partial portion in draft:</p> <p>"It is recommended that, to maintain further consistency with the Premiers' agreement, the revised clause not make reference to provision of "educational facilities", but only to "the provision out of public funds of minority language instruction".</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Memorandum to Ministers from Minister of Justice re:</u></p>	<p>"Cabinet agreed that certain changes, proposed in the Memorandum to Ministers, be</p>

	<p><u>Possible Amendments to Proposed Resolution on Constitution of Canada:</u></p>	<p>made in this section respecting the qualifications for entitlement to minority language education, but that the requirement of “where numbers warrant” should be retained to maintain consistency with the 1978 Montreal Agreement of Provincial Premiers.</p> <p>It is suggested that, to maintain further consistency with the Premiers’ agreement, the revised clause not make reference to provision of “educational facilities”, but only to “the provision out of public funds of minority language instruction”.</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u></p>	<p>"23. (1) Citizens of Canada</p> <p>(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</p> <p>(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province.</p> <p>(2) Citizens of Canada of whom one child has received 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.</p>

		<p>(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction.</p> <p>23. (1) Les citoyens canadiens</p> <p>a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province ou ils résident,</p> <p>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 d'instruction est, à ce niveau, celle de la minorité linguistique française ou anglaise de la province,</p> <p>ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.</p> <p>(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.</p>
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		<p>(3) Le droit reconnu aux citoyens canadiens par le present article de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité française ou anglaise d'une province ne s'exerce que là où le nombre d'enfants de citoyens qui ont ce droit est suffisant pour justifier la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité.</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u></p>	<p>"23. (1) Citizens of Canada, who have received their primary school instruction in English or French in Canada, and who reside in a province in which the language of that instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in that language."</p> <p>(2) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that province in that country.</p> <p>(3) Citizens of Canada of whom one child has received 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.</p>

		(4) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction in that area.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Same as Dec. 12, Copy 1.
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Change “educational facilities” to “the provision out of public funds of minority language instruction” However, Annex 8, is missing.
Dec. 17, 1980	<u>December 17, 1980: Draft Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Same as Dec. 12 Drafts (Annexes) COPY 1.
Dec. 17, 1980	<u>December 17, 1980: Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	SAME.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	"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, <u>or</u> (b) who have received their primary school instruction anywhere in Canada in the

		<p>language, whether English or French, of the linguistic minority population of the province in which they reside,</p> <p>have the right to have their children receive primary and secondary school instruction in that language in <u>that</u> ^{[[the]]³⁴ province [[in which they reside]].}</p> <p>(2) Citizens of Canada of whom one child has received 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.</p> <p>(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where the number of children of citizens <u>who have such a right</u> is sufficient to warrant the provision out of public funds of minority language <u>instruction</u>.</p>
<p>Dec. 30, 1980</p>	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>23. (1) Same as Dec. 12</p> <p>(a) Same as Dec. 12</p> <p>(b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglaise au Canada et qui résident dans une province où la langue ^[dans laquelle ils ont reçu leur] d'instruction est, à ce niveau, celle de la</p>

³⁴ Unsure whether “the” is correct here, but it makes the most sense in context with rest of the addition.

		<p>minorité linguistique française ou anglaise de la province,</p> <p>(2) Same as Dec. 12 (3) Same as Dec. 12</p>
<p>Unknown Date</p>	<p><u>Section 23: Minority Language Education Rights, Alternative Wording Draft:</u></p>	<p>Alternate Draft</p> <p>23. (1) Citizens of Canada</p> <p>(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</p> <p>(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside have a right to have their children receive primary and secondary school instruction in that language in that province.</p> <p>(2) Citizens of Canada of whom one child has received 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.</p> <p>(3) The rights of citizens of Canada under this section to have their children receive primary and secondary school</p>

		<p>instruction in the language of the English or French linguistic minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction in that area.</p>
<p>Jan. 9, 1981</p>	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u></p>	<p>English Same as SJC version</p> <p>French SJC version needs to be confirmed :</p> <p>23. (1) Les citoyens canadiens :</p> <p>a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident,</p> <p>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,</p> <p>ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.</p> <p>(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</p>

		<p>enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.</p> <p>(3) Le droit reconnu aux citoyens canadiens par le présent article de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité française ou anglaise d'une province s'exerce s'ils résident dans une région de la province où le nombre d'enfants de citoyens qui ont ce droit est suffisant pour justifier la prestation dans cette région, sur les fonds publics, de l'instruction dans la langue de la minorité.</p>
<p>Jan. 12, 1981</p>	<p><u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u></p>	<p>23. (1) Citizens of Canada</p> <p>(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</p> <p>(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.</p> <p>(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or</p>

		<p>French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.</p> <p>(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where they reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction in that area.</p>
<p>Jan. 26, 1981</p>	<p><u>January 26, 1981: Memo from Deputy Minister of Justice to Minister re Droit à la Minorité à l’Instruction – Article 23 du Projet de la Résolution Constitutionnelle:</u></p>	<p>23. (1) Citizens of Canada</p> <p>(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, <u>or</u></p> <p>(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,</p> <p>have the right to have their children receive primary and secondary school instruction in that language in <u>that</u> province.</p>

		<p>(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.</p> <p>(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</p> <p>(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</p> <p>(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.</p> <p>23.(1) Les citoyens canadiens:</p> <p>a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de</p>
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		<p>la province où ils résident,</p> <p>b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglaise 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,</p> <p>ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.</p> <p>(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.</p> <p>(3) Le droit reconnu aux citoyens canadiens par les paragraphes (1) et (2) de faire instruire leurs enfants, au niveaux primaire et secondaire, dans la langue de la minorité francophone ou anglophone d'une province :</p> <p>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</p>
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		<p>dans la langue de la minorité;</p> <p>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.</p>
January 29, 1981	<u>SJC Committee Amendment</u>	<p>English identical to memo draft.</p> <p>French identical to memo draft.</p>
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	<p>English identical to memo draft (and committee amendment)</p> <p>French version (new):</p> <p>23 (1) Les citoyens canadiens:</p> <p>a) dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de la province où ils résident,</p> <p>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 francophone ou anglophone de la province,</p> <p>ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.</p> <p>(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</p>

		<p>secondaire, dans la langue de cette instruction.</p> <p>(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:</p> <p>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;</p> <p>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.³⁵</p>
<p>Nov. 4, 1981</p>	<p><u>November 4, 1981: Draft Compromise</u></p>	<p>2. ACCEPTANCE OF THE FULL CHARTER WITH TWO AMENDMENTS-</p> <p>(A) THOSE PROVINCES WHICH AGREE WITH MINORITY LANGUAGE EDUCATION AGREE NOW. ANY PROVINCE WHICH DISAGREES WITH THIS CAN OPT OUT BUT MUST HOLD A REFERENDUM ON THE ISSUE IN THAT PROVINCE. REFERENDUM</p>

³⁵ The clause would not change after this, however, discussions surrounding the clause would continue in October-November of 1981.

		DECISION WILL BIND THAT PROVINCE.
Nov. 4, 1981	<u>November 4, 1981: Canada Act (Saskatchewan Position)</u>	Moved out of Charter. Suggested new clause reads: “Part II MINORITY LANGUAGE EDUCATION 33. Without altering the legislative authority of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, the legislatures of the provinces, together with the governments of the provinces, are committed to the principle that citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority of the province in which they reside are entitled to have their children receive, where numbers so warrant, primary and secondary school instruction in that language in that province. “
Nov. 4, 1981	<u>November 4, 1981: Jean Chretien, Roy Romanow, Roy McMurtry, The Kitchen Accord</u>	<u>NEVER</u> <u>-Min, Lang. Rights:</u> To opt in. If no opt in, automatic referendum in the prov.
Nov. 5, 1981	<u>November 5, 1981: Constitutional Proposal Submitted by the Government of Newfoundland at the First Ministers Conference:</u>	(3) CHARTER OF RIGHTS & FREEDOMS - THE ENTRENCHMENT OF THE FULL CHARTER OF RIGHTS AND

		<p>FREEDOMS NOW BEFORE PARLIAMENT WITH THE FOLLOWING CHANGES</p> <p>[...]</p> <p>(C) WITH RESPECT TO MINORITY LANGUAGE EDUCATIONAL RIGHTS A PROCEDURE WOULD BE ADOPTED WHEREBY THE SECTION WOULD COME INTO FORCE IN ANY PROVINCE WHOSE LEGISLATURE ADOPTED THE PROPOSAL. IF WITHIN TWO YEARS A LEGISLATURE HAD NOT ADOPTED THE SECTION A BINDING REFERENDUM WOULD BE HELD IN THAT PROVINCE TO DETERMINE THE ISSUE. THE NEWFOUNDLAND GOVERNMENT WOULD INTRODUCE IN THE HOUSE OF ASSEMBLY THE NECESSARY RESOLUTION TO ADOPT THESE PROVISIONS OF THE CHARTER WITH RESPECT TO NEWFOUNDLAND.</p>
<p>Nov. 5, 1981</p>	<p>November 5, 1981: Proposal [No Title], Version 1, Copy 1:</p>	<p>(3) Charter of Rights & Freedoms</p> <ul style="list-style-type: none"> - The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: <p>(c) We have agreed that the provisions of Section 23 in respect of Minority Language Education Rights will apply to</p>

		our Provinces. Any Province not agreeing to be found by this Section continues to have the right to accept the application of the Section to their Province at any future time.
Nov. 5, 1981	<u>November 5, 1981: Proposal [No Title], Version 2 with Notes:</u>	(3) Charter of Rights & Freedoms - The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: (c) We have agreed that the provisions of Section 23 in respect of Minority Language Education Rights will apply to our Provinces. Any Province not agreeing to be found by this Section continues to have the right to accept the application of the Section to their Province at any future time. ³⁶
Nov. 5, 1981	<u>November 5, 1981: Proposal [No Title], Version 4:</u>	The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: (c) We have agreed that the provisions of Section 23 in respect of Minority Language Education Rights will apply to our provinces.
Nov. 5, 1981	<u>November 5, 1981: Accord:</u>	Same as above
Nov. 6-?, 1981	<u>November, 1981: Possible Amendments for Quebec:</u>	3. Minority Language Education Right: (a) Opting in for Section 23 as whole for Quebec.

³⁶ An illegible comment in the margin of this as well, followed by “Nfd., B.C., Alta., Sask., P.E.I., Man, N.S., Ont, N.B.”

		<p>or</p> <p>(b) CANADA clause only is brought in force in Quebec. Under the Quebec Clause of Bill 101, the children of the mother or father who has received in Quebec his or her primary education in English are entitled to receive their education in English in Quebec.</p> <p>The Quebec Clause becomes the Canada Clause by providing that the children of the mother or father who has received in Canada (instead of Quebec) his or her primary education in English are entitled to receive their education in Quebec. The Canada Clause test is now embodied in S 23(1) (b) of the Resolution. But Section 23 goes much beyond the Canada Clause by extending the minority language education right to citizens of Canada whose mother tongue is English (in the case of Quebec) (S. 23(1) (a)) and to citizens of Canada who do not meet the Canada Clause test nor the mother tongue test (e.g. an Italian born in Italy) but whose children have already started their education in English, to continue their education in English in Quebec.</p> <p>In the result, S. 23(1) (a) (mother tongue test) and s. 23(2) (rights of citizens that do not meet the mother test or the Canada Clause test but who have children who continue their education in English)</p>
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		<p>completely alter the meaning and substance of the so-called Canada Clause by extending the right to minority language education much beyond those who have received their primary education in Canada.</p> <p>If it is decided to transform the Quebec Clause into the CANADA Clause there is a need to provide either for an opting in, or an opting out or a non obstante for Section 23(1) (a) and 23 (2).</p> <p>The advantage of the non obstante over the opting in is that it might be easier for a Quebec government to decide to be bound if it knows that it will be able to cope with a situation which might arise contrary to all expectations through the use of a non obstante. With an "opting in", a province is locked in without any possibility of derogation whatever happens. The advantage of the "non obstante" over an opting out is that the "non obstante", which is a kind of opting out, must be reviewed every five years.</p>
<p>Unknown date, prob. Nov. 1981</p>	<p><u>November, 1981: Memorandum of Understanding or Addendum to Accord (no date)</u></p>	<p><u>Memorandum of Understanding or addendum to accord</u></p> <p>1- Clause Canada tolérée pour le Québec. 2- Opting out en matière d'éducation et de culture (ou [illegible constitutionnel] ou déclaration unilatérale du PCM</p> <p>Clause Canada : [illegible]</p>

		<p>opting out...[illegible]</p> <p>Romanow :</p> <p>23. All the 9 gave freedom that could accommodate Quebec</p> <p><u>3 options</u></p> <ul style="list-style-type: none"> a) Fed impose 23 [illegible] b) Listing the 9 in the resolution c) Defined until the govern. [illegible] d) <u>23</u> not
Nov. 12, 1981	<u>November 12, 1981: Memorandum to Roger Tassé from Eddie Goldenberg re Draft changes to the constitutional Resolution with Handwritten Notes:</u>	Notwithstanding draft contains ability of QC to suspend Section 23(1)(a) and coming into force of this clause for QC and MB
Nov. 12, 1981	<u>November 12, 1981: Various Drafts of Clauses [Untitled]:</u>	Notwithstanding clause, which applies to Sections 23(1) and (2). See Notwithstanding portion of tables.
Nov. 16, 1981	<u>November 16, 1981: Various Drafts of Clauses [Untitled]</u>	Notwithstanding Clause for Sec. 23, and several drafts discussing the coming into force of Section 23, and how it can be amended.
Nov. 17, 1981	<u>November 17, 1981: Telex from Jean Chrétien to Premiers Re: Proposed Amendment to New Constitutional Resolution... (17 November 1981)</u>	Chretien announces which portions of Section 23 will come into force in relation to QC
Nov. 17, 1981	<u>November 17, 1981: Letter from Louis Duclos, M.P. to Prime Minister Trudeau [French]:</u>	<p>1) Les citoyens canadiens 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 francophone ou</p>

		<p>anglophone 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.</p> <p>2) Le droit reconnu aux citoyens canadiens par le paragraphe 1) de faire instruire leurs enfants dans la langue de la minorité francophone ou anglophone d'une province s'exerce, dans les limites qui soient raisonnables, conformément aux conditions dans lesquelles la minorité de langue officielle a traditionnellement pu exercer un tel droit au Québec.</p>
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Further Reading—Discussions Surrounding Clause:

- Unknown date. [Memo: Section 23 – Minority Language Education Rights \(prob. Cabinet report\)](#)
- [October 7, 1980: Note Documentaire: Incidence de la Charte des Droits sur les Dispositions de la Loi 101 du Quebec portant sur la Langue d'Enseignement](#)
- [October 7, 1980: Briefing Note: Minority Language, Educational Rights](#)
- [October 21, 1980: Memo from Deputy Minister of Justice to Michael Kirby re Charter of Rights – Language Rights \(inc. briefing notes\)](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [October 26, 1981: Memorandum from Eddie Goldenberg to Michael Kirby](#)
- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)
- [October 31, 1981: Memorandum for Michael Kirby \[from Eddie Goldenberg\]](#)
- prob. November, 1981: [Cabinet Document: Preferred Options](#)
- [November 4, 1981: Jean Chretien, Roy Romanow, Roy McMurtry, The Kitchen Accord](#)
- [November 6, 1981: Memorandum for the Prime Minister: Outlook following the Constitutional Agreement:](#)

- [November 9, 1981: Mémoire au Premier Ministre: Options Concernant les Trois Points de Desaccord avec le Quebec](#)
- [November 9, 1981: Rencontre avec Rene Dussault \(Roger Tassé\)](#)
- [November 9, 1981: Memorandum for Mr. Kirby, Quebec and the Constitutional Agreement \[from D.R. Cameron\]](#)
- [November 10, 1981: Memorandum for the Minister \(from Roger Tassé\) re: Propositions for Quebec](#)
- [November 11, 1981: Memo, Les Propositions Ryan](#)
- [November 12, 1981: Memo from the Deputy Minister to the Minister of Justice, Le Québec](#)
- [November 18, 1981: Letter from Claude Ryan to Prime Minister Trudeau](#)
- [November 26, 1981: Note de service à Monsieur Pierre de Bané de Lina Allard \[chef de cabinet de M. Claude Ryan\]](#)
- [December 1, 1981: Note au Premier Ministre de Pierre de Bané](#)

Section 24: Remedies

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>19. Where no other effective recourse or remedy is available or provided for by law, anyone whose rights or freedoms as declared by this Charter have been infringed or denied to his or her detriment has the right to apply to a court of competent jurisdiction to obtain such relief or remedy as the court deems appropriate and just in the circumstances.</p> <p>19. En l'absence de tout autre recours utile prévue par la loi, toute personne dont les droits ou les libertés reconnus par la présente Charte ont été violés de manière à lui causer un préjudice a le droit de demander à toute cour compétente d'obtenir la réparation que la cour estime juste et appropriée, compte tenu des circonstances.</p>
<p>July 16, 1980</p>	<p>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</p>	<p>Unchanged.</p>
<p>August 5, 1980</p>	<p>August 5, 1980: Revised Discussion Draft with Memo:</p>	<p>27. Where no other legal recourse or remedy is available, anyone whose rights or freedoms as declared by this</p>

		Charter have been in fringed or denied to his or her detriment has the right to apply to a court of competent jurisdiction to obtain relief or remedy by way of declaration, injunction, damages or penalty as may be appropriate and just in the circumstances.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	22. (b) Nothing in this Charter affects the admissibility of evidence or the ability of Parliament or a legislature to legislate thereon.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	25. No provision of this Charter other than section 12 affects the laws respecting the admissibility of evidence in any proceedings or the authority of Parliament or a legislature to make laws in relation thereto. 25. A l'exception de l'article 12, les dispositions de la présente Charte n'affectent en rien les lois portant sur l'admissibilité de la preuve dans toute procédure, ni les compétences respectives du Parlement et des législatures de légiférer en cette matière.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	English unchanged 26. A l'exception de l'article 13, les dispositions de la présente charte ne portent pas atteinte aux lois sur l'admissibilité de la preuve en justice, ni aux pouvoirs du Parlement et des législatures de légiférer en cette matière.

October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	Unchanged
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged ³⁷
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Unchanged: 26. No provision of this Charter, other than section 13, affects the laws respecting the admissibility of evidence in any proceedings or the authority of Parliament or a legislature to make laws in relation thereto. 26. A l'exception de l'article 13, les dispositions de la présente charte ne portent pas atteinte aux lois sur l'admissibilité de la preuve en justice, ni aux pouvoirs du Parlement et des législatures de légiférer en cette matière.
Nov. 20, 1980	<u>November 20, 1980: Annex [No Title] Draft</u>	ALTERNATIVE I "25. Where no other <u>effective</u> recourse or remedy is available <u>or provided for by law</u> , anyone whose rights or freedoms, as declared by this Charter, have been infringed or denied to his or her detriment has the right to apply to a court of competent jurisdiction to obtain <u>such</u> relief or remedy <u>as the court deems appropriate</u> and just in the circumstances."

³⁷ "Look at C-60 Section 19" is written in the column.

		<p>ALTERNATIVE II</p> <p>“25. Where no other <u>legal</u> recourse or remedy is available, anyone whose rights or freedoms, as declared by this Charter, have been infringed or denied to his or her detriment has the right to apply to a court of competent jurisdiction to obtain relief or remedy <u>by way of declaration, injunction, damages or penalty, as may be appropriate</u> and just in the circumstances.”</p>
<p>Nov. 21, 1980</p>	<p><u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u></p>	<p>25. Where no other legal recourse or remedy is available, anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied has the right to apply to a court of competent jurisdiction to obtain relief or remedy by way of declaration, injunction, damages or other similar³⁸ order, as may be appropriate and just in the circumstances.</p>
<p>Nov. 24, 1980</p>	<p><u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u></p>	<p>25. Where no other legal recourse <small>[effective? relief? recourse?]</small> or remedy is available <small>[or provided for by law]</small>, anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied has the right to apply to a court of competent jurisdiction to obtain relief or remedy by way of declaration, injunction, damages or other [similar] order, as may be appropriate and just in the circumstances.</p> <p>25. Toute personne, victime de violation ou de négation des droits et libertés qui lui sont</p>

³⁸ This is in brackets in pen with commentary in pen saying “Is this word “similar” too restrictive. Underneath there is a typed phrase, which reads, “Note: Draftsman recommends reconsideration of the words “or other similar order”.”

		garantis par la présente Charte, peut, en l'absence d'autre recours judiciaires ou moyens de droit, présenter à tout tribunal compétent une demande en vue d'obtenir une réparation convenable et juste eu égard aux circonstances, notamment par voie de jugement déclaratoire d'injonction, de dommages-intérêts.
Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	"25. Where no other effective remedy is provided for by law, anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied has the right to apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances." "25. Toute personne, victime de violation ou de négation des droits et libertés qui lui sont garantis par la présente Charte, peut, à défaut de pouvoir obtenir satisfaction par les voies de droit normales, s'adresser à un tribunal compétent pour obtenir la réparation que le tribunal estime convenable et juste au égard aux circonstances."
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Same as Nov. 25.
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Clause 26 (admissibility of evidence) recommended for deletion. Annex 9, however, is unavailable.
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed</u>	25. Where no other effective remedy is provided for by law, anyone whose rights or

	<u>Resolution Respecting the Constitution of Canada</u>	freedoms, as guaranteed by this Charter, have been infringed or denied has the right to apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	Same as Nov. 25 (French)
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	<p>24. 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.</p> <p>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.</p>
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	Same. Confirm French.
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	<p>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.</p> <p>(2) Where, in proceedings under subsection (1), a court concludes</p>

		<p>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.</p> <p>24 (1) Toute personne, victime de violation ou de négation des droits ou 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.</p> <p>(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.</p>
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Further Reading—Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)

Section 25: Indigenous Rights

July 4, 1980	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>17. Nothing in this Charter abrogates or derogates from any right or freedom not declared by it that may exist in Canada, including any right or freedom that may pertain to the native peoples of Canada.</p> <p>17. La présente Charte ne limite ni ne supprime les droits et libertés qu'elle ne reconnaît pas expressément et qui peuvent exister au Canada, notamment les droits et libertés que peuvent posséder les peuples autochtones du Canada.</p>
July 16, 1980	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	Unchanged.
August 5, 1980	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	25. The enumeration in this Charter of certain rights and freedoms shall not be construed to exclude, or to derogate from, any other fundamental rights or freedoms that may exist in Canada, including any rights or freedoms that may pertain to the native peoples of Canada.
August 8, 1980	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	Unchanged
August 22, 1980	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	25. The enumeration in this Charter of certain rights and freedoms shall not be construed to exclude, or to derogate from, any other rights or freedoms that may exist in Canada, including any rights or freedoms that may pertain to the native peoples of Canada.
August 28, 1980	<p><u>August 28, 1980: Provincial Proposal (In the event that</u></p>	n/a

	<u>there is going to be entrenchment)</u>	
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	<p>23. The enumeration in this Charter of certain rights and freedoms shall not be construed to deny the existence of any other rights or freedoms that may exist in Canada, including any rights or freedoms that may pertain to the native peoples of Canada.</p> <p>23. La présente Charte ne nie pas l'existence des droits et libertés qu'elle n'énumère pas expressément et qui peuvent exister au Canada, notamment les droits et libertés des peuples autochtones du Canada.</p>
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	Unchanged.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	<p>24. 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, including any rights or freedoms that pertain to the native peoples of Canada.</p> <p>24. La présente charte ne nie pas l'existence des droits et libertés qu'elle ne garantit pas expressément et qui existent au Canada, notamment les droits et libertés des peuples autochtones du Canada.</p>
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	<p>24. 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, including any <i>[historic, treaty or other]</i> rights or freedoms that pertain to</p>

		the native ^[aboriginal] peoples of Canada.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Same as Version 1: 24. 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, including any rights or freedoms that pertain to the native peoples of Canada. 24. La présente charte ne nie pas l'existence des droits et libertés qu'elle ne garantit pas expressément et qui existent au Canada, notamment les droits et libertés des peuples autochtones du Canada.
Dec. 8, 1980	<u>December 8, 1980: Memo from Deputy Minister of Justice to Minister of Justice re Possible Amendments to Proposed Resolution:</u>	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 may exist in Canada, including any historic, treaty or other rights or freedoms that may pertain to the Aboriginal peoples of Canada.
Dec. 11, 1980	<u>December 11, 1980: Draft, Memorandum re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Missing Draft Annex 4.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Reverts back to Oct. 2 (Eng)
Dec. 19, 1980	<u>December 19, 1980: Memo from Deputy Minister to Minister Re Charter of Rights - Aboriginal Rights:</u>	"The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of (a) <u>any aboriginal, treaty or other rights or freedoms that may pertain to the aboriginal peoples of Canada, including any rights</u>

		<p><u>or freedoms that may have been acquired by virtue of the Royal Proclamation of 1763, or</u></p> <p>(b) any other rights or freedoms that may exist in Canada.”</p>
Dec. 19, 1980	<p><u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u></p>	<p>The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of</p> <p>(a) any aboriginal, treaty or other rights or freedoms that may pertain to the aboriginal peoples of Canada, including any rights or freedoms that may have been acquired^{recognized}³⁹ by virtue of the Royal Proclamation of October 7, 1763; or</p> <p>(b) any other rights or freedoms that may exist in Canada.</p>
Dec. 30, 1980	<p><u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u></p>	<p>French same as Oct. 2</p>
Jan. 9, 1981	<p><u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u></p>	<p>Same as SJC</p>
Jan. 12, 1981	<p><u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u></p>	<p>25. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of</p> <p>(a) any aboriginal, treaty or other rights or freedoms that may pertain to the aboriginal peoples of Canada including any right or freedom that may have been recognized by the</p>

³⁹ Unsure if this is correct word here.

		<p>Royal Proclamation of October 7, 1763; or</p> <p>(b) any other rights or freedoms that may exist in Canada.</p> <p>Le fait que la présente Charte garantit certains droits et libertés ne constitue une négation:</p> <p>a) ni des droits ou libertés— ancestraux, issus de traités ou autres— que peuvent avoir les peuples autochtones du Canada, notamment des droits ou libertés qui ont pu être reconnus par la Proclamation royale du 7 octobre 1763;</p> <p>b) ni des autres droits ou libertés qui peuvent exister au Canada.</p>
<p>Feb. 2, 1981</p>	<p><u>February 2-3, 1981: Unofficial Version Transmitted to Government of N.W.T.:</u></p>	<p>Amendment to Section 25:</p> <p>Aboriginal and treaty rights of aboriginal peoples of Canada are hereby recognized and confirmed.</p>
<p>Feb. 13, 1981</p>	<p><u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u></p>	<p>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</p> <p>(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and</p> <p>(b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.</p>

		<p>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 :</p> <p>a) aux droits ou libertés reconnus par la proclamation royale du 7 octobre 1763;</p> <p>b) aux droits ou libertés acquis par règlement de revendications territoriales.</p>
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Further Reading—Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- November 28, 1980: [Memorandum for the Prime Minister: Native Peoples and the Constitution](#)
- [December 18, 1980: Proposed Resolution: Matters Outstanding](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
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Section 26: Existing Rights

Jul.– Feb	Same as Sec. 25	Same as Sec. 25
Feb. 13	February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:	<p>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.</p> <p>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.</p>

Section 27: Multiculturalism

July-Nov.	Various Drafts	N/a
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u></p>	<p>ALTERNATIVE I (Dec. 12)</p> <p>“26. This Charter shall be interpreted in a manner consistent with the object of promoting the preservation and enhancement of the diverse cultural heritages of Canadians.”</p> <p>26. Toute interprétation de la présente charte doit être en concordance avec l’objectif de promouvoir le maintien et la valorisation des divers patrimoines culturels canadiens.</p> <p>ALTERNATIVE II</p> <p>“22. To ensure the continued preservation and enhancement of the diverse cultural heritages of Canadians, nothing in sections 16 to 20 shall be <u>construed</u> as abrogating or derogating 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.”</p> <p>22. Il est entendu, compte tenu de l’objectif de maintenir et de valoriser les divers patrimoines culturels <u>canadiens, que</u> 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, <u>attachés à une langue quelconque.</u></p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated</u></p>	<p>ALTERNATIVE I SAME</p> <p>ALTERNATIVE II</p>

	<u>December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u>	22. To ensure the continued preservation and enhancement of the diverse cultural heritages of Canada, nothing in sections 16 to 20 shall be construed as abrogating or derogating 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.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Same as Dec. 12 Annex, Copy 1, Alternative 1
Dec. 12, 1980	<u>December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	<p>“26. This Charter shall be interpreted in a manner consistent with the object of promoting the preservation and enhancement of the diverse ^[bilingual and multi-]cultural heritages of Canadians.”</p> <p>“22. To ensure the continued preservation and enhancement of the diverse cultural heritages of Canada, nothing in sections 16 to 20 shall be construed to abrogate or derogate 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.”</p>
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Annex 10 unavailable.
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Same as Dec. 12 drafts (annex).
Dec. 17, 1980	<u>December 17, 1980: Draft Memorandum to Ministers</u>	“This Charter shall be interpreted in a spirit ^[manner] ”

	<u>from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	consistent with the object of promoting ^[with] the preservation and enhancement of the multicultural heritage of Canadians.”
Dec. 17, 1980	<u>December 17, 1980: Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	“This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.”
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Same as Dec. 17
Dec. 30	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire:</u>	French same as Dec. 12, Annex (Copy 1), Alternative I. Doesn’t incorporate any of the new changes made and continues the words « divers patrimoines » instead of « multiculturel »
Jan. 1981	<u>Briefing Book/ SJC</u>	English : Same as Dec. 17 French : 26. Toute interprétation de la présente charte doit concorder avec l’objectif de promouvoir le maintien et la valorisation du patrimoine multiculturel des Canadiens.

Section 28: Equality of the Sexes

Jul.-February	Various Drafts	n/a
February 23, 1981	<u>Memorandum for the Prime Minister, The Constitutional Resolution: 1. Procedural Issues, 2. An amendment to incorporate a reference to a divine sanction for rights:</u>	“Consideration is being given by Justice Officials...These include: (2) An amendment that would provide that the rights and freedoms guaranteed by the Charter shall be enjoyed equally by men and women;”

March 19, 1981	<u>March 19, 1981: Memo from Senior Counsel (Public Law to Minister via B.L. Strayer) re Charter Rights Equality for Men and Women:</u>	“Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.”
March 20, 1981	<u>March 20, 1981: Memo from E.I. Macdonald to Deputy Minister re Possible Amendments to the Proposed Resolution on the Constitution:</u>	English is the same. French reads: « Indépendamment des autres dispositions de la présente charte, les droits et libertés qui y sont mentionnés sont garantis également aux personnes des deux sexes. »
April, 22, 1981	<u>April 22, 1981: Memo from Mary Dawson to Roger Tassé [No Title]:</u>	Same
April 24, 1981	<u>April 24, 1981: Consolidation of proposed constitutional resolution tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981:</u>	Same
Nov. 5, 1981	<u>November 5, 1981: Working Draft, Consolidation of proposed constitutional resolutions tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981</u>	28. Notwithstanding anything in this Charter <u>except section 33</u> , the rights and freedoms referred to in it are guaranteed equally to male and female persons.
Nov. 16, 1981	<u>November 16, 1981: Telex from Roger Tassé re: Override of Section 28 in Section 33 of Charter and Wording of Mobility Rights Derogation under Section 6(4)</u>	Recommendation is to keep same.
Nov. 18, 1981 (presented to Parl on Nov. 20)	<u>November 18, 1981: Resolution Respecting Constitution Act:</u>	Unchanged.

		French version: Indépendamment des autres dispositions de la présente charte, exception faite de l'article 33, les droits et libertés qui y sont mentionnés sont garantis également aux personnes des deux sexes.
Nov. 23, 1981	<u>November 23, 1981: Telex from Howard Leeson to Jean Chrétien [Saskatchewan Proposal]:</u>	28(2) NOTHING IN SUBSECTION (1) PRECLUDES ANY LAW, PROGRAM OR ACTIVITY THAT HAS AS ITS OBJECT THE AMELIORATION OF CONDITIONS OF INDIVIDUALS OR GROUPS THAT ARE DISADVANTAGED BECAUSE OF SEX.
Nov. 24, 1981	<u>November 24, 1981: Resolution Respecting Constitution Act:</u>	28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons. 28 Indépendamment des autres dispositions de la présente charte, les droits et libertés qui y sont mentionnés sont garantis également aux personnes des deux sexes.

Further Reading – Discussions Surrounding Clause:

- [November 19, 1981: Memo from Deputy Minister to Minister of Justice re Override Clause in Relation to Section 28 of Charter](#)

Section 29: Denominational Schools

Jul.-Feb.	-	N/a
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	29 Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of

		<p>denominational, separate or dissentient schools.</p> <p>29 Les dispositions de la présente charte ne portent pas atteinte aux droits ou privilèges garantis en vertu de la Constitution du Canada concernant les écoles séparées et autres écoles confessionnelles.</p>
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Further Reading – Discussions Surrounding Clause:

- [November 28, 1980: Memorandum from Assistant Deputy Minister \(Public Law\) to Minister of Justice re Newfoundland Denominational Schools and Proposed Constitutional Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Section 30: Application to the Territories

July 4, 1980	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>20. A reference in any of sections 3 to 5 and 10 to 16 to a province or to the legislative assembly or legislature of a province includes a reference to the Yukon Territory or the Northwest Territories or to the Council or Commissioner in Council thereof, as the case may be.</p> <p>20. Le Yukon et les Territoires du Nord-Ouest, ainsi que le Conseil ou le Commissaire en Conseil de ces territoires sont assimilés, pour l’application des articles 3 à 5 et 10 à 16, à une province, à une assemblée législative provinciale ou à un corps législatif provincial, selon le cas.</p>
July 16, 1980	<p>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</p>	Unchanged.

<p>August 5, 1980</p>	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	<p>28. 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 or the Northwest Territories or to the Council or Commissioner in Council thereof, as the case may be.</p>
<p>August 8, 1980</p>	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	<p>Unchanged</p>
<p>August 22, 1980</p>	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	<p>30. 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 or the Northwest Territories or to the appropriate legislative authority thereof, as the case may be.</p>
<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>Unchanged.</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft: French Version</u></p>	<p>English unchanged.</p> <p>26. Le Yukon et les Territoires du Nord-Ouest, ainsi que le Conseil ou le Commissaire en Conseil de ces territoires sont assimilés, pour l'application de la présente Charte, à une province, à une assemblée législative provinciale ou à une législature provinciale selon le cas.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>27. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall, except in section 29, 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.</p>

		<p>26. Dans la présente charte, sauf à l'article 29, 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.</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 1]:</u></p>	<p>27. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall, except in section 29, 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.</p> <p>French unchanged,</p>
October 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>27. 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.</p> <p>27. 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.</p>
Oct. 2, 1980	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen</u></p>	<p>Unchanged from Version 2:</p> <p>27. A reference in this Charter to a province or to the legislative</p>

	<u>respecting the Constitution of Canada</u>	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. 27. 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.
Jan. 1981	<u>Briefing Book/SIC</u>	Unchanged

Section 31: Legislative Powers Not Extended

July 4, 1980	<u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u> <u>French Version</u>	21. Nothing in this Charter confers any legislative authority on any competent body or authority except as expressly provided by this Charter. 21. La présente Charte ne confère aux organes législatifs du Canada aucun pouvoir législatif autre que ceux qu'elle prévoit expressément.
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	21. Nothing in this Charter confers any legislative authority on any body or authority except as expressly provided by this Charter.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	Unchanged
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	29. Nothing in this Charter confers any legislative power on any body or authority except as expressly provided by this Charter.

August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	Unchanged
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft: French Version</u>	English unchanged. 27. La présente Charte ne confère aucun pouvoir législatif autre que ceux qu'elle prévoit expressément
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	English unchanged. 27. La présente charte ne confère à aucun organisme des compétences législatives autres que celles qui y sont expressément prévues.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u>	28. Nothing in this Charter extends the legislative powers of any body or authority. 28. La présente charte n'élargit pas les compétences législatives de quelque organisme ou autorité que ce soit.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	Unchanged
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	Unchanged: 28. Nothing in this Charter extends the legislative powers of any body or authority. 28. La présente charte n'élargit pas les compétences législatives de quelque organisme ou autorité que ce soit.

Section 32: Application of the Charter

July-September	Various Drafts	n/a
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her</u>	"29.(1) This Charter applies to the Parliament and government

	<p><u>Majesty the Queen respecting the constitution of Canada:</u></p>	<p>of Canada and to all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories.</p> <p>(2) This Charter, except sections 7 to 15, applies to the legislature and government, and to all matters within the authority of the legislature, of each province.</p> <p>(3) Notwithstanding subsection (2), in each province the legislative assembly may, by resolution, authorize the issue by the Governor General of a proclamation under the Great Seal of Canada declaring that all legal rights set out in sections 7 to 14 or the non-discrimination right set out in section 15, or all rights set out in sections 7 to 15, shall apply to the legislature and government and to all matters within the authority of the legislature of the province.</p> <p>(4) Where a proclamation has been issued under subsection (3) in respect of a province, sections 7 to 14 or section 15, or all of those sections, as provided in the proclamation, apply to the legislature and government and to all matters within the authority of the legislature of the province.</p> <p>(5) Sections 7 to 14 or section 15 may be amended or repealed</p> <p>(a) if proclamations have been issued relating to those sections or that section under subsection (3) in respect of one or more but less than six provinces, by the</p>
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		<p>procedure for amending a provision for amending a provision of the Constitution of Canada that applies to one or more but not all, provinces; or</p> <p>(b) if proclamations have been issued relating to those sections or that section under subsection (3) in respect of six or more provinces, by the procedure for amending other provisions of this Charter.</p> <p>29. (1) La présente charte s'applique au Parlement et au gouvernement du Canada, ainsi qu'à toutes les questions relevant du Parlement, y compris celles qui concernent le territoire du Yukon et les territoires du Nord-Ouest.</p> <p>(2) La présente charte, sauf les articles 7 à 15, s'applique à la législature et au gouvernement de chaque province ainsi qu'à toutes les questions relevant de cette législature.</p> <p>(3) L'assemblée législative de chaque province peut prendre une résolution autorisant le gouverneur général à déclarer, par proclamations sous le grand sceau du Canada, l'application, à la législature et au gouvernement de la province, ainsi qu'à toutes les questions relevant de cette législature, soit de tous les droits visés aux articles 7 à 14, soit du droit visé à l'article 15, soit de l'ensemble de ces droits.</p> <p>(4) A compter de la proclamation visée dans le</p>
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		<p>présent article, les articles 7 à 14, l'article 15 ou l'ensemble de ces articles, selon le cas, s'appliquent à la législature et au gouvernement de la province concernée ainsi qu'à toutes les questions relevant de cette législature.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]:</u></p>	<p>29.(1) This Charter applies 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.</p> <p>(2) This Charter, except sections 7 to 15, applies to the legislature and government, and to all matters within the authority of the legislature, of each province.</p> <p>(3) The legislative assembly of each province may, by resolution, authorize the issue by the Governor General of a proclamation under the Great Seal of Canada declaring that all rights set out in sections 7 to 14, section 15 or sections 7 to 15 apply to the legislature and government, and to all matters within the authority of the legislature, of the province.</p> <p>(4) Where a proclamation has been issued under subsection (3) in respect of a province, sections 7 to 14, section 15 or sections 7 to 15, as provided in the proclamation, apply to the legislature and government, and to all matters within the</p>

		<p>authority of the legislature, of the province.</p> <p>(5) Sections 7 to 14 or section 15 may be amended or repealed</p> <p><i>[non discrimination in 3 years]</i></p> <p>(a) if proclamations have been issued relating to those sections or that section under subsection 93) in respect of one or more but less than six provinces, by the procedure for amending a provision of the Constitution of Canada that applies to one or more, but not all, provinces; or</p> <p>(b) in any other case, by the procedure for amending other provisions of this Charter.</p> <p>29. (1) La présente charte s’applique 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.</p> <p>(2) La présente charte, sauf les articles 7 à 15, s’applique à la législature et au gouvernement de chaque province, ainsi qu’à tous les domaines relevant de cette législature.</p> <p>(3) L’assemblée législative de chaque province peut adopter une résolution autorisant le gouverneur général à déclarer, par proclamation sous le grand</p>
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		<p>sceau du Canada, que tous les droits visés aux articles 7 à 14, à l'article 15 ou aux articles 7 à 15 sont applicables à la législature et au gouvernement de la province, ainsi qu'à tous les domaines relevant de cette législature.</p> <p>(4) A compter de la proclamation visée dans le présent article, les articles 7 à 14, l'article 15 ou les articles 7 à 15 s'appliquent, selon le cas, à la législature et au gouvernement de la province concernée ainsi qu'à tous les domaines relevant de cette législature.</p> <p>(5) La modification ou l'abrogation des articles 7 à 14 ou de l'article 15 sont subordonnées :</p> <p>a) à la procédure de modification des dispositions de la Constitution du Canada applicables à certaines provinces seulement, si une à cinq provinces ont fait l'objet de la proclamation visée au paragraphe (3);</p> <p>b) à la procédure de modification des autres dispositions de la présente charte, dans tous les autres cas.</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>29. (1) This Charter applies</p> <p>(a) to the Parliament and government of Canada and to all matters within the authority of Parliament including all matters</p>

		<p>relating to the Yukon Territory and Northwest Territories; and</p> <p>(b) to the legislature and government of each province and to all matters within the authority of the legislature of each province.</p> <p>(2) Notwithstanding subsection (1), section 15 shall not have application until three years after this Act, except Part V, comes into force.</p> <p>29. (1) La présente charte s’applique :</p> <p>a) au Parlement et au gouvernement du Canada, ainsi qu’a tous les domaines relevant du Parlement, y compris ceux qui concernent le territoire du Yukon et les territoires du Nord-Ouest;</p> <p>b) a la législature et au gouvernement de chaque province, ainsi qu’a tous les domaines relevant de cette législature.</p> <p>(2) Par dérogation au paragraphe (1), l’article 15 ne s’applique que trois ans après l’entrée en vigueur, exception faite de la partie V, de la présente loi.</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>Unchanged from Version 2:</p> <p>29. (1) This Charter applies</p> <p>(a) to the Parliament and government of Canada and to all matters within the authority of Parliament including all matters</p>

		<p>relating to the Yukon Territory and Northwest Territories; and</p> <p>(b) to the legislature and government of each province and to all matters within the authority of the legislature of each province.</p> <p>(2) Notwithstanding subsection (1), section 15 shall not have application until three years after this Act, except Part V, comes into force.</p> <p>29. (1) La présente charte s'applique :</p> <p>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;</p> <p>b) a la législature et au gouvernement de chaque province, ainsi qu'à tous les domaines relevant de cette législature.</p> <p>(2) Par dérogation au paragraphe (1), l'article 15 ne s'applique que trois ans après l'entrée en vigueur, exception faite de la partie V, de la présente loi.</p>
<p>Oct. 31, 1980</p>	<p><u>October 31, 1980: Dawson Memo:</u></p>	<p>Change "have application" to "have effect"</p>
<p>Nov. 12, 1980</p>	<p><u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u></p>	<p>(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after⁴⁰</p>

⁴⁰ This would only be changed officially in February.

Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Unchanged from Oct. 2 (English)
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Unchanged from Oct. 2 (English)
Jan. 9, 1981	<u>January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:</u>	-
Jan. 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	Unchanged from Oct. 2
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	<p>31. (1) This Charter applies</p> <p>(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</p> <p>(b) to the legislature and government of each province and to all matters within the authority of the legislature of each province.</p> <p>(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this Act, except Part VI, comes into force.</p> <p>31. (1) La présente charte s'applique:</p> <p>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;</p>

		<p>b) à la législature et au gouvernement de chaque province, ainsi qu'à tous les domaines relevant de cette législature.</p> <p>(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.</p>
April 24, 1981	<u>April 24, 1981: Consolidation of proposed constitutional resolution tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981:</u>	No change
Nov. 5, 1981	<u>November 5, 1981: Working Draft, Consolidation of proposed constitutional resolutions tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981</u>	<p>32. (1) This Charter applies</p> <p>(a) to the Parliament and government of Canada <u>in respect of</u> all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and</p> <p>(b) to the legislature and government of each province <u>in respect of</u> all matters within the authority of the legislature of each province.</p> <p>(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this Act comes into force.</p>
Nov. 18, 1981	<u>November 18, 1981: Resolution Respecting Constitution Act:</u>	32. (1) This Charter applies

		<p>(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and</p> <p>(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.</p> <p>(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.⁴¹</p>
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Section 33: Notwithstanding Clause

<p>August 15, 1980</p>	<p><u>August 15, 1980: Charter of Rights: Status Report</u></p>	<p>“...if there is considerable provincial sentiment for including a provision, the federal officials would propose a clause which might permit an override under one or more of the following conditions:</p> <p>(a) that enactment of an override law would require some special majority vote, eg. 60%</p> <p>(b) that any law with an override clause would have a limited life, eg. five or ten years, unless in the meantime an amendment to the Charter had been made remedying the problem perceived by law.”</p>
<p>August 29, 1980</p>	<p><u>August 29, 1980: Charter of Rights. Report to Ministers by Sub-Committee of Officials</u></p>	<p>“One mechanism was discussed, in the event it is decided that an override clause is necessary (and this could depend on the ultimate scope and wording of an entrenched Charter), is a requirement that any law</p>

⁴¹ The word section replaces “Act” from the Nov. 5, 1981 draft.

		<p>enacted under an override provision be adopted by a 60% majority of the legislative body and that any such law would expire after a specified time period, e.g., five years unless repealed earlier. There was no discussion of the particular categories of rights to which any override clause might apply.”</p>
<p>August-September, 1980</p>	<p><u>Cabinet Document: The Provincial Discussion Draft dated August 28, 1980</u></p>	<p>“Legislative Override Clause...</p> <p>Federal officials raised doubts respecting the necessity for an override clause but suggested that if there should be one it should be restricted by requirements that any law enacted under an override provision be adopted by a 60% majority of the legislative body and expire after a specific time (e.g., 5 years”</p> <p>[...]</p> <p>“At the FMC some of the following adjustments in the federal position might be contemplated:</p> <p>[...]</p> <p>(e) Override Clause: possible inclusion of an override clause whereby a legislative body could expressly provide that a law would operate notwithstanding certain Charter Rights. Fundamental Freedoms, Democratic Rights and Language Rights would not be subject to this override clause. In the event that it is decided to include an override clause, it could be made subject to such requirements as a 60% majority</p>

		vote of the legislative body and an automatic expiry of any law enacted after a specified time period, e.g., five years.”
August 30, 1980	<u>August 30, 1980: Report to Cabinet on Constitutional Discussions, Summer 1980, and the Outlook for the First Ministers Conference and Beyond</u>	ibid. (probably comes from same document)
Sep. 8-12, 1980	<u>September 8-12, 1980: Report of the Continuing Committee of Ministers on the Constitution to First Ministers. Charter of Rights:</u>	“One mechanism that was discussed, in the event it is decided that an override clause is necessary (and this could depend on the ultimate scope and wording of an entrenched Charter), is a requirement that any law enacted under an override provision be adopted by a 60% majority of the legislative body and that any such law would expire after a specified time period, e.g., five years unless repealed earlier. There was no discussion of the particular categories of rights to which any override clause might apply.”
Sep. 13, 1980	<u>September 13, 1980: Government of Quebec, “A Proposal for a Common Stand of the Provinces.”</u>	<u>Charter of rights</u> Fundamental freedoms Democratic rights Judicial rights Discrimination rights -all existing laws deemed valid -non-obstante clause
October 24, 1981	<u>October 24, 1981: Memorandum for the Prime Minister from Michael Kirby re Possible Changes that might be Acceptable if they Result in a Provincial Consensus</u>	“...In order to ensure that such a device is only used in the most exceptional and deserving situation, we could consider providing for the following: 1) A “notwithstanding” clause would be <u>valid for five years only</u> . It could be renewed for another five years, which would mean that the legislature would need to debate the question before the clause would be passed again.

		<p>2) We could provide that a “notwithstanding” clause would need to relate specifically both to a specific clause of the derogating legislation and the specific section of the Charter that it is in conflict with.</p> <p>3) There could be a refinement that a “notwithstanding clause must be passed by 60% or 66% of the members of the legislative assembly...”</p>
October 29, 1981	<u>October 29, 1981: Memorandum to the Minister, Charter of Rights</u>	<p>“A Non Obstante Clause</p> <p>A final option is to provide a means whereby Parliament or a legislature could enact a law contrary to the Charter by specifically declaring the intention to override. The mechanism could be restricted by requiring adoption by a two-thirds majority in a legislature and further providing that the law would automatically expire after five years.</p> <p>[...]</p> <p>A variant of a general non-obstante clause would be to limit it to Section 15 which guarantees rights some of which remain subject to considerable evolution....”</p>
Oct. 29, 1981	<u>October 29, 1981: Memo from Deputy Minister of Justice of Michael Kirby re Non obstante clause</u>	<p>“A sunset provision would on the other hand provide a degree of control on the use of an override clause and allow public debate on the desirability of continuing the derogation further.”</p>
Oct. 31, 1981	<u>October 31, 1981: Memorandum for Michael Kirby [from Eddie Goldenberg]</u>	<p>“With respect to legal rights, a compromised based on an override clause would be</p>

		<p>satisfactory. The same would be true for equality rights inasmuch as an over-ride clause would be necessary for age, sex, and disability. We spoke of an over-ride clause requiring a two-thirds majority of a legislature and which would have a sunset clause.”</p> <p>[...]</p> <p>Elements of a Deal</p> <p>[...]</p> <p>Charter of Rights</p> <p>[...]</p> <ul style="list-style-type: none"> - Mobility rights subject to over-ride by a majority of legislatures - Legal rights subject to over-ride by two-thirds of a legislature with a five year sunset clause -Equality rights applicable across the board except for age, sex, and disability which would be subject to an over-ride
<p>Unknown date, prob. Nov. 1981</p>	<p><u>November, 1981: Unknown draft</u></p>	<p>Charter in 5 years? 7 years</p> <p>+2 ans of the majority 6-60% not for non discrimination legal mobility aboriginal</p> <p>referendum out</p> <p>vote 2/3 of assembly</p> <p>“5 ans” donne une chance d’inscrire cela dans le</p>

		<p>programme de n'importe quel parti provincial dans la prochaine election</p> <p>2/3 n'est pas necessaire +Ont. 133</p>
Nov. 3, 1981	<u>November 3, 1981: Canada Act (B.C. Position):</u>	<p>32A. [Sections 2 and 7 to 15 of this Part shall] not apply to an Act of the Parliament of Canada or the legislature of a province which specifically provides that <i>[any or all of these sections does not apply thereto.]</i></p>
Nov. 4, 1981	<u>November 4, 1981: Jean Chretien, Roy Romanow, Roy McMurtry, The Kitchen Accord</u>	<p><u>All</u> the Charter But the <u>2nd</u> Half of it as stated By Hatfield Non Obstante</p> <p>[...]</p> <p>-5 year "<u>Sunset</u>" on the legal, <u>special rights</u> a la s. 4(2)</p>
Nov. 4-5, 1981	<u>November 4-5, 1981: Compromise on Fundamental Freedoms:</u>	<p>HAVE NON OBSTANTE CLAUSE APPLY FOR 5 YEARS WITH THE PROVISIO THAT AFTER THAT TIME AN OBJECTIVE GROUP WILL REVIEW WHETHER IT IS APPROPRIATE FOR IT TO CONTINUE TO APPLY AND MAKE RECOMMENDATIONS TO THE FIRST MINISTERS.</p>
Nov. 5, 1981	<u>November 5, 1981: Constitutional Proposal Submitted by the Government of Newfoundland at the First Ministers Conference:</u>	<p>(3) CHARTER OF RIGHTS & FREEDOMS</p> <p>- THE ENTRENCHMENT OF THE FULL CHARTER OF RIGHTS AND FREEDOMS NOW BEFORE PARLIAMENT WITH THE</p>

		<p>FOLLOWING CHANGES</p> <p>[...]</p> <p>(B) NON OBSTANTE CLAUSE COVERING SECTIONS DEALING WITH LEGAL RIGHTS AND EQUALITY RIGHTS. THIS WOULD MAKE IT POSSIBLE FOR PARLIAMENT OR A LEGISLATURE TO OVERRIDE THESE PROVISIONS OF THE CHARTER IN CERTAIN SPECIFIED CIRCUMSTANCES.</p>
Nov. 5, 1981	<p>November 5, 1981: Proposal [No Title], Version 1, Copy 1:</p>	<p>(3) Charter of Rights & Freedoms</p> <ul style="list-style-type: none"> - The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: <p>(b) Non obstante clause covering sections dealing with Fundamental Freedoms, Legal Rights and Equality Rights. This would make it possible for Parliament or a Legislature to override these provisions of the Charter in certain specified circumstances.</p>
Nov. 5, 1981	<p>November 5, 1981: Proposal [No Title], Version 2 with Notes:</p>	<p>(3) Charter of Rights & Freedoms</p>

		<ul style="list-style-type: none"> - The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: <p>(b) Non obstante clause <i>[with 5 year limit]</i> covering sections dealing with Fundamental Freedoms⁴², Legal Rights and Equality Rights. This would make it possible for Parliament or a Legislature to override these provisions of the Charter in certain specified circumstances.</p>
<p>Nov. 5, 1981</p>	<p>November 5, 1981: Proposal [No Title], Version 3 with Notes [Missing Pages]:</p>	<p>(3) Charter of Rights & Freedoms</p> <ul style="list-style-type: none"> - The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes: <p>(b) A non obstante <i>[notwithstanding]</i> clause covering sections dealing with Fundamental Freedoms, Legal Rights and Equality Rights. Each non obstante provision would require reenactment not less frequently than once every five years.</p>

⁴² "Fundamental Freedoms" is circled. There's also an illegible note in the margin.

<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Proposal [No Title], Version 4:</u></p>	<p>The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes:</p> <p>(b) A "notwithstanding" clause covering sections dealing with Fundamental Freedoms, Legal Rights and Equality Rights. Each "notwithstanding" provision would require reenactment not less frequently than once every five years.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Working Draft, Consolidation of proposed constitutional resolutions tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981</u></p>	<p>33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2, sections 7 to 15 or section 28 of the Canadian Charter of Rights and Freedoms.⁴³</p> <p>(2) An Act or a provision of an Act of Parliament or of the legislature of a province in respect of which a declaration is made under subsection (1) shall have such operation as it would have but for the provision of the <u>Canadian Charter of Rights and Freedoms</u> referred to in the declaration.</p> <p>(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.</p>

⁴³ There is an illegible handwritten note on Section 33 in the [Peckford version](#).

		<p>(4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).</p> <p>(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).</p>
<p>Nov. 6-?, 1981</p>	<p><u>November, 1981: Possible Amendments for Quebec:</u></p>	<p>“There are 3 possibilities to be considered:</p> <p>...</p> <p>2. Mobility Rights</p> <p>“Allow for a “non obstante” by a province where the exercise of the right of mobility would substantially alter the linguistic equilibrium of the population of that province. (This is preferable to Ryan’s proposal, from a technical point of views, but meets the same objective.)</p> <p>[...]</p> <p>3. Minority Language Education Right:</p> <p>[...]</p> <p>If it is decided to transform the <u>Quebec Clause</u> into the <u>CANADA Clause</u> there is a need to provide either for an opting in, or an opting out for a non obstante for Section 23(1)(a) <u>and</u> 23(2).</p> <p>The advantage of the non obstante over the opting in is that it might be easier for a Quebec government to decide to be bound if situation which might arise contrary to all</p>

		<p>expectations through the use of a non obstante. With an “opting in”, a province is locked in without any possibility of derogation whatever happens.</p> <p>The advantage of the “non obstante” over an opting out is that the “non obstante”, which is a kind opting out, must be reviewed every five years.”</p>
<p>Unknown date, prob. Nov. 1981</p>	<p><u>Cabinet Document: Preferred Options</u></p>	<p>“We have indicated our willingness to accept the <u>Canada Clause</u>. This was understood to mean at least that we would be prepared not to insist on the mother tongue test in Quebec, and also that we would not insist on imposing on Quebec the right of citizens who do not meet the mother tongue test nor the instruction test, to continue the education of their children in English. In order to implement the concept of the <u>Canada Clause</u>, we would have to provide either:</p> <p>(a) for a <u>non-obstante</u> on both S. 21 (1)(a) (mother tongue) and S. 23(2) (continuation of instruction) in the case of Quebec, or</p> <p>(b) at the very least for “an opting in” or a “non-obstante” on the mother tongue test (S. 23(1)(a)).</p>
<p>Nov. 9, 1981</p>	<p><u>November 9, 1981: Rencontre avec Rene Dussault (Roger Tassé)</u></p>	<p>Re: Sec. 23(2):</p> <p>“A l’égard de cet article, nous avons exploré trois possibilités :</p> <p>[...]</p> <p>(2) une clause « non obstante » : un telle clause permettrait à une province de déroger au droit de l’article 23(2) lorsque la sécurité</p>

		<p>culturelle de la province est menacée, comme discutée dans le cas du droit à l'établissement. »</p> <p>[...]</p> <p>« Dussault a indiqué, qu'à son avis, il serait nécessaire de permettre :</p> <p>....</p> <p>(b) Une clause dérogatoire (possiblement des mesures de redressement) qui pourrait être en conflit avec les articles 23(1)(b) – (clause Canada), et l'article 23(2) – (droit des allophones) lorsque ces mesures se justifient parce que la sécurité culturelle du Québec est menacée.</p>
<p>Nov. 9, 1981</p>	<p><u>November 9, 1981:</u> <u>Memorandum for Mr. Kirby, Quebec and the Constitutional Agreement [from D.R. Cameron]</u></p>	<p>"The following six options in the area of language of education should be considered in the light of the preceding considerations:</p> <p>[...]</p> <p>2. Language rights (in Quebec alone, or in all the provinces) could be made subject to a notwithstanding clause.</p>
<p>Nov. 10, 1981</p>	<p><u>November 10, 1981:</u> <u>Memorandum for the Minister (from Roger Tassé) re: Propositions for Quebec</u></p>	<p>"Mr. Ryan proposes that the Canada clause be adopted and that the mother tongue test for Quebec be subject to opting-in, opting-out, or non obstante...</p> <p>To allow a non obstante clause renewable every five years would be a major symbolic concession and would be seen as an important gesture...."</p> <p>[...]</p>

		<p>“Mr. Ryan would subject to a non obstante provision the part of Section 23(2) which protects the right of a Canadian citizen to continue to send his children to school anywhere in Canada in English or French if one of his children has attended school in that language anywhere in Canada. In effect, we are dealing with a mobility clause.</p> <p>...I have come to the conclusion that there is no option which overcomes the objection that some Canadians would have fewer rights than others when they move to different parts of the country. If the Canada clause is not subjected to a non obstante provision in the case of a mass influx from other provinces to Quebec, then there is no rationale for restricting the mobility provision in the case of Canadian citizens with children in school in Canada even if the citizens did not receive his education in English in Canada...”</p>
<p>Nov. 12, 1981</p>	<p>November 12, 1981: Various Drafts of Clauses [Untitled]:</p>	<p><u>Option I - Population Percentage</u></p> <p>34. (1) The legislature of a province may expressly declare in an Act of the legislature that the Act or a provision thereof shall operate notwithstanding subsections 6(2) and (3), subsection 23(1) or subsection 23(2) of this Charter, or all those subsections, where</p> <p>(a) the percentage that the population of the province whose first language learned and still understood is that of the</p>

		<p>English or French linguistic majority, as determined by the most recent general census, is of the total population of the province, as determined by that census,</p> <p>has decreased by at least five per cent from</p> <p>(b) the percentage that the linguistic majority population of the province, as determined by the general census of the population of Canada required to be taken in 1981, was of the total population of the province, as determined by that census.</p> <p>(2) An Act or a provision of an Act in respect of which a declaration is made under subsection (1) shall come into force no earlier than three months after the Act has been assented to.</p> <p>(3) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration, but only in respect of individuals who have become residents of the province after the Act or provision thereof comes into force.</p> <p>(4) A declaration made under subsection (1) shall cease to have effect six months after the publication of the results of the next general census, taken no earlier than five years after the previous general census, or on</p>
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		<p>such earlier date as may be specified in the declaration.</p> <p>(5) The legislature of a province may re-enact a declaration made under subsection (1) where the condition set out in that subsection is met.</p> <p>(6) Subsection (4) applies in respect of a re-enactment made under subsection (5).</p> <p style="text-align: center;"><u>Option II - School Population Percentage</u></p> <p>34. (1) The legislature of a province may expressly declare in an Act of the legislature that the Act or a provision thereof shall operate notwithstanding subsections 6(2) and (3), subsection 23(1) or subsection 23(2) of this Charter, or all those subsections, where</p> <p>(a) the percentage that the primary and secondary school population of the province that receives its instruction in the language of the English or French linguistic majority is of the total primary and secondary school population of the province</p> <p>has decreased by at least five per cent from</p> <p>(b) the percentage that the primary and secondary school population of the province that received its instruction in the language of the English or French majority on January 1, 1982 was of the total primary and</p>
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		<p>secondary school population of the province on that day.</p> <p>(2) An Act or a provision of an Act in respect of which a declaration is made under subsection (1) shall come into force no earlier than three months after the Act has been assented to.</p> <p>(3) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration, but only in respect of individuals who have become residents of the province after the Act or provision thereof comes into force.</p> <p>(4) A declaration made under subsection (1) shall cease to have effect five years after it come into force or on such earlier day as may be specified in the declaration.</p> <p>(5) The legislature of a province may re-enact a declaration made under subsection (1) where the condition set out in that subsection is met.</p> <p>(6) Subsection (4) applies in respect of a re-enactment made under subsection (5).</p> <p style="text-align: center;"><u>Option III – Majority Substantially Altered</u></p> <p>34. (1) The legislature of a province may expressly declare in an Act of the legislature that</p>
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		<p>the Act or a provision thereof shall operate notwithstanding subsections 6(2) and (3), subsection 23(1) or subsection 23(2) of this Charter, or all those subsections, where the exercise of any of the rights referred to in those subsections would substantially alter the linguistic equilibrium of the English and French linguistic populations in that province.</p> <p>(2) An Act or a provision of an Act in respect of which a declaration is made under subsection (1) shall come into force no earlier than three months after the Act has been assented to.</p> <p>(3) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration, but only in respect of individuals who have become residents of the province after the Act or provision thereof comes into force.</p> <p>(4) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier day as may be specified in the declaration.</p> <p>(5) The legislature of a province may re-enact a declaration made under subsection (1) where the condition set out in that subsection is met.</p>
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		<p>(6) Subsection (4) applies in respect of a re-enactment made under subsection (5).</p> <p style="text-align: center;"><u>Option IV - Majority Declared by Legislature to be Altered</u></p> <p>34. (1) The legislature of a province may expressly declare in an Act of the legislature that the Act or a provision thereof shall operate notwithstanding subsections 6(2) and (3), subsection 23(1) or subsection 23(2) of this Charter, or all those subsections.</p> <p>(2) A legislature may make a declaration under subsection (1) only if the declaration is approved by the votes of two thirds of its members.</p> <p>(3) An Act or a provision of an Act in respect of which a declaration is made under subsection (1) shall come into force no earlier than three months after the Act has been assented to.</p> <p>(4) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration, but only in respect of individuals who have become residents of the province after the Act or provision thereof comes into force.</p> <p>(5) A declaration made under subsection (1) shall cease to have effect five years after it comes</p>
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		<p>into force or on such earlier day as may be specified in the declaration.</p> <p>(6) The legislature of a province may re-enact a declaration made under subsection (1) where the condition set out in that subsection is met.</p> <p>(7) Subsections (2) and (5) apply in respect of a re-enactment made under subsection (6).</p> <p>34. (1) La législature d'une province peut adopter une loi où il est déclaré que celle-ci ou une de ses dispositions a effet indépendamment des paragraphes 6(2) et (3), du paragraphe 23(1) ou du paragraphe 23(2) de la présente charte ou de tous ces paragraphes dans le cas où le pourcentage, par rapport à la population totale de la province, des habitants dont la première langue apprise et encore comprise est celle de la majorité francophone ou anglophone selon le recensement général le plus récent a diminué d'au moins cinq pour cent selon le recensement général de 1981.</p> <p>(2) La loi ou la disposition qui fait l'objet de la déclaration ne peut entrer en vigueur qu'à compter de trois mois suivant sa sanction.</p> <p>(3) La loi ou la disposition qui fait l'objet de la déclaration visée au paragraphe (1) n'a l'effet qu'elle aurait sans l'application</p>
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		<p>de la disposition en cause de la charte qu'à l'égard des individus qui sont venus s'installer dans la province après l'entrée en vigueur de cette loi ou de cette disposition.</p> <p>(4) La déclaration visée au paragraphe (1) cesse d'avoir effet six mois après la publication des résultats du recensement général qui suit de cinq ans au moins le recensement qui est à l'origine de celle-ci ou à la date antérieure qui est précisée dans la déclaration.</p> <p>(5) La législature d'une province peut adopter de nouveau une déclaration visée au paragraphe (1) si les conditions énoncées à ce paragraphe continuent à s'appliquer.</p> <p>(6) Les paragraphes (3) et (4) s'appliquent à toute déclaration adoptée sous le régime du paragraphe (5).</p>
<p>Nov. 12, 1981</p>	<p><u>November 12, 1981:</u> <u>Memorandum to Roger Tassé from Eddie Goldenberg re Draft changes to the constitutional Resolution with Handwritten Notes:</u></p>	<p>33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2, sections 7 to 15 or section 28 of this Charter</p> <p>(2) The legislature of a province may expressly declare in an Act of the legislature that the Act or a provision thereof shall operate notwithstanding subsections 6(2) and (3) of the Charter where</p>

		<p>the exercise of any of the rights referred to in those subsections would (seriously threaten to) substantially alter the linguistic equilibrium of the population in that province.</p> <p>(3) The legislature of Quebec may expressly declare in an Act of that legislature that the Act or a provision thereof shall operate notwithstanding paragraph 23(1)(a) of the Charter.</p> <p>(4) An Act or a provision of an Act in respect of which a declaration is made under subsection (1), (2) or (3) shall have such operation as it would have but for the provision of this Charter referred to in the declaration.</p> <p>(5) A declaration made under subsection (1), (2) or (3) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.</p> <p>(6) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).</p> <p>(7) The legislature of a province may re-enact a declaration made under subsection (2).</p> <p>(8) The legislature of Quebec may re-enact a declaration made under subsection (3).</p> <p>(9) Subsection (5) applies in respect of a re-enactment made under subsection (6), (7) or (8).</p>
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<p>November 16, 1981</p>	<p>November 16, 1981: Various Drafts of Clauses [Untitled]</p>	<p><u>Override in the case of massive migration</u></p> <p>33.1 (1) The legislature of a province may expressly declare in an Act of the legislature that the Act or a provision thereof shall operate notwithstanding subsections 6(2) and (3), subsection 23(1) or subsection 23(2) of this Charter where</p> <p>(a) the percentage that the population of the province whose first language learned and still understood is that of the English or French linguistic majority population of the province, as determined by the most recent general census, is of the total population of the province, as determined by that census, has decreased by at least five per cent from</p> <p>(b) the percentage that the population of the province whose first language learned and still understood is that of the English or French linguistic majority population of the province, as determined by the general census taken in 1981, was of the total population of the province, as determined by that census.</p> <p>(2) An Act or a provision of an Act in respect of which a declaration is made under subsection (1) shall come into force no earlier than three months after the Act has been assented to.</p> <p>(3) An Act or a provision of an Act in respect of which a</p>
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		<p>declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration, but only in respect of individuals who have become residents of the province after the Act or provision thereof comes into force.</p> <p>(4) A declaration made under subsection (1) shall cease to have effect six months after the publication of the results of the next general census after the declaration is made or on such earlier date as may be specified in the declaration.</p> <p>(5) The legislature of a province may re-enact a declaration made under subsection (1) where the condition set out in that subsection is met.</p> <p>(6) Subsection (4) applies in respect of a re-enactment made under subsection (5).</p>
<p>Nov. 16, 1981</p>	<p><u>November 16, 1981: Telex from Roger Tassé re: Override of Section 28 in Section 33 of Charter and Wording of Mobility Rights Derogation under Section 6(4)</u></p>	<p>"PARLIAMENT OR THE LEGISLATURE OF A PROVINCE MAY EXPRESSLY DECLARE IN AN ACT OF PARLIAMENT OR OF THE LEGISLATURE, AS THE CASE MAY BE, THAT THE ACT OR A PROVISION THEREOF SHALL OPERATE NOTWITHSTANDING A PROVISION INCLUDED IN SECTION 2 OR SECTIONS 7 TO 15 OF THIS CHARTER, OR SECTION 28 OF THE CHARTER IN ITS APPLICATION TO</p>

		<p>DISCRIMINATION BASED ON SEX REFERRED TO IN SECTION 15."</p>
<p>Nov. 18, 1981 (presented to Parl on Nov. 20)</p>	<p><u>November 18, 1981: Resolution Respecting Constitution Act:</u></p>	<p>33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter, or section 28 of this Charter in its application to discrimination based on sex referred to in section 15.</p> <p>(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.</p> <p>(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.</p> <p>(4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).</p> <p>(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).</p> <p>33.(1) Le Parlement ou la législature d'une province peut adopter une loi où il est expressément déclaré que celle-ci ou une de ses dispositions a</p>

		<p>effet indépendamment d’une disposition donnée de l’article 2 ou des articles 7 à 15 de la présente charte, ou de l’article 28 de cette charte dans son application à la discrimination fondée sur le sexe et mentionnée à l’article 15.</p> <p>(2) La loi ou la disposition qui fait l’objet d’une déclaration conforme au présent article et en vigueur a l’effet qu’elle aurait sauf la disposition en cause de la charte.</p> <p>(3) La déclaration visée au paragraphe (1) cesse d’avoir effet à la date qui y est précisée ou, au plus tard, cinq ans après son entrée en vigueur.</p> <p>(4) Le Parlement ou une législature peut adopter de nouveau une déclaration visée au paragraphe (1).</p> <p>(5) Le paragraphe (3) s’applique à toute déclaration adoptée sous le régime du paragraphe (4).</p>
<p>Nov. 24, 1981</p>	<p><u>November 24, 1981: Resolution Respecting Constitution Act:</u></p>	<p>Section 33(1) is amended. Subsection (4) in English seems to contain a drafting mistake now, which says “the legislature”. It will eventually go back to being “a legislature” without an amendment.</p> <p>33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2</p>

		<p>or sections 7 to 15 of this Charter.</p> <p>(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.</p> <p>(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.</p> <p>(4) Parliament or the legislature of a province may re-enact a declaration made under subsection (1).</p> <p>(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).</p> <p>33 (1) Le Parlement ou la législature d'une province peut adopter une loi où il est expressément déclaré que celle-ci ou une de ses dispositions a effet indépendamment d'une disposition donnée de l'article 2 ou des articles 7 à 15 de la présente charte.</p> <p>(2) La loi ou la disposition qui fait l'objet d'une déclaration conforme au présent article et en vigueur a l'effet qu'elle aurait sauf la disposition en cause de la charte.</p> <p>(3) La déclaration visée au paragraphe (1) cesse d'avoir effet à la date qui y est précisée ou, au plus tard, cinq ans après son entrée en vigueur.</p>
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		<p>(4) Le Parlement ou une législature peut adopter de nouveau une déclaration visée au paragraphe (1).</p> <p>(5) Le paragraphe (3) s’applique à toute déclaration adoptée sous le régime du paragraphe (4).</p>
Nov. 26, 1981	November 26, 1981: Resolution Respecting Constitution Act:	Same
Dec. 2, 1981	December 2, 1981: Resolution Respecting Constitution Act, Voted and Passed by House of Commons:	(4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).

Further Reading – Discussions Surrounding Clause:

- [March 5, 1981: Legislative Override of Charter of Rights:](#)
- [November 12, 1981: Memo from the Deputy Minister to the Minister of Justice, Le Québec](#)
- [November 19, 1981: Memo from Deputy Minister to Minister of Justice re Override Clause in Relation to Section 28 of Charter](#)

Section 35: Treaty Rights

Jul.-Jan.	Various Drafts	n/a
January 30, 1981	SJC Committee Amendment	<p>33. (1) The aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.</p> <p>(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.</p> <p>33. (1) La présente charte confirme les droits, ancestraux ou issus de traités, des peuples autochtones du Canada.</p> <p>(2) Dans la présente loi, « peuples autochtones du Canada » s’entend notamment</p>

		des Indiens, des Inuit et des Métis du Canada.
Feb. 2, 1981	<u>February 2-3, 1981: Unofficial Version Transmitted to Government of N.W.T.:</u>	Amendment to Section 25: Aboriginal and treaty rights of aboriginal peoples of Canada are hereby recognized and confirmed.
Feb. 13, 1981	<u>February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:</u>	Same as committee amendment.
Apr. 22, 1981	<u>April 22, 1981: Memo from Mary Dawson to Roger Tassé [No Title]:</u>	Change just to French version: "33. (1) Les droits, ancestraux ou issus de traités, des peuples autochtones du Canada sont, par les présentes, confirmés."
Apr. 24	<u>April 24, 1981: Consolidation of proposed constitutional resolution tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981:</u>	Same
November, 1981	<u>November, 1981: Unknown draft:</u>	Mentions "Aboriginal" under other elements of November Accord deal?
Nov. 5, 1981	<u>November 5, 1981: Constitutional Proposal Submitted by the Government of Newfoundland at the First Ministers Conference:</u>	"...The provisions of the Act now before Parliament relating to Equalization and Regional Disparities, the Rights of the Aboriginal Peoples...would be included."
Nov. 5, 1981	<u>November 5, 1981: Proposal [No Title], Version 2 with Notes:</u>	The word "aboriginal" is for the first time included, however, it is only in pencil under subsection (4). It is also uncertain whether it is crossed out or there is a checkmark over the word.

<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Proposal [No Title], Version 4: & Nov. Accord (same wording)</u></p>	<p>(5) A constitutional conference as provided for in clause 36 of the Resolution, including 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, shall be provided for in the Resolution. The Prime Minister of Canada shall invite representatives of the Aboriginal peoples of Canada to participate in the discussion of that item.</p>
<p>Nov. 5, 1981</p>	<p><u>November 5, 1981: Working Draft, Consolidation of proposed constitutional resolutions tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981</u></p>	<p>Clause removed.</p>
<p>Nov. 18, 1981</p>	<p><u>November 18, 1981: Resolution Respecting Constitution Act:</u></p>	<p>Section removed</p>
<p>Nov. 20, 1981</p>	<p><u>November 20, 1981: (Telex) Statement from Premier Lougheed to Trudeau, Premiers, Clark, and Broadbent re Constitutional Resolution and Native Rights:</u></p>	<ol style="list-style-type: none"> 1. The Aboriginal and Treaty Rights of the Aboriginal Peoples of Canada, as those rights exist prior to the coming into force of this part, are affirmed. 2. The rights affirmed under subsection (1) include rights subsequently included in the Constitution of Canada pursuant to Section 36. 3. In this Act, +Aboriginal Peoples of Canada+ includes the Indian, Inuit and Metis peoples of Canada.

<p>Nov. 23, 1981</p>	<p><u>November 23, 1981: Memo from Deputy Minister to Minister re Aboriginal Rights in Constitutional Resolution</u></p>	<p>Federal:</p> <p>“34(1) The <i>[existing]</i> aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.</p> <p>(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis people of Canada.”</p> <p>Alberta:</p> <p>“34(1) The aboriginal and treaty rights of the aboriginal peoples of Canada, <u>as those rights exist prior to the coming into force of this Part, are affirmed.</u></p> <p><u>(2) The rights affirmed under subsection (1) include rights subsequently included in the Constitution of Canada pursuant to section 36.</u></p> <p>(3) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.”</p>
<p>Nov. 23, 1981</p>	<p><u>November 23, 1981: Memo from Deputy Minister to Minister re Aboriginal Rights in Constitutional Resolution, Copy 2</u></p>	<p>Only change is handwritten into the Alberta provision:</p> <p>“34(1) The <i>[existing]</i> aboriginal and treaty rights of the aboriginal peoples of Canada, <u>as those rights exist prior to the coming into force of this Part, are affirmed.</u></p>
<p>Nov. 24, 1981</p>	<p><u>November 24, 1981: Memo from Deputy Minister of Justice to President of the Privy Council & Minister of Justice re Amendments to Aboriginal Rights</u></p>	<p>“35.(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.</p>

		<p>(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.”</p> <p>« 35. (1) Les droits existants – ancestraux ou issus de traités – des peuples autochtones du Canada sont confirmés.</p> <p>(2) Dans la présente loi, « peuples autochtones du Canada » s’entend notamment des Indiens, des Inuit et des Métis du Canada. »</p>
Nov. 24, 1981	<u>November 24, 1981: Resolution Respecting Constitution Act:</u>	Clause still missing
November 25, 1981	<u>November 25, 1981: Memo from Deputy Minister to Minister re Droits des Peuples Autochtones du Canada</u>	<p>« 35.(1) Les droits existants – ancestraux ou issus de traités – des peuples autochtones du Canada sont reconnus et confirmés.</p> <p>(2) Dans la présente loi, « peuples autochtones du Canada » s’entend notamment des Indiens, des Inuit et des Métis du Canada. »</p>
Nov. 26, 1981	<u>November 26, 1981: Resolution Respecting Constitution Act:</u>	<p>35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.</p> <p>(2) In this Act, aboriginal peoples of Canada includes the Indian, Inuit and Métis peoples of Canada.</p> <p>35 (1) Les droits existants – ancestraux ou issus de traités – des peuples autochtones du Canada sont reconnus et confirmés.</p> <p>(2) Dans la présente loi, peuples autochtones du Canada s’entend</p>

		notamment des Indiens, des Inuit et des Métis du Canada.
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Further Reading—Discussions Surrounding Clause:

- **Unknown date.** [Northwest Territories: The Position of the Legislative Assembly of the Northwest Territories on the Amendments to the Proposed Constitution of Canada](#): “(1) The Legislative Assembly seeks to have Clause 34 of the proposed resolution reinstated in the Constitution recognizing and affirming the Aboriginal and Treaty Rights of the aboriginal peoples of the Northwest Territories. The Assembly would further request that the clause be listed in the category of matters that can be amended only with the approval of Canada and the legislative assemblies of all of the provinces.”
- [February 23, 1981: Memorandum for the Prime Minister, The Constitutional Resolution: 1. Procedural Issues, 2. An amendment to incorporate a reference to a divine sanction for rights](#)
- [October 30, 1981: First Ministers’ Conference on the Constitution - Briefing Book, Memorandum for the Prime Minister, Refinements to the Resolution which may be Acceptable to the Federal Government](#)
- [November 4, 1981: Canada Act \(Saskatchewan Position\)](#):
- [November 4, 1981: Jean Chretien, Roy Romanow, Roy McMurtry, The Kitchen Accord](#)
- [November 12, 1981: Memo from the Deputy Minister to the Minister of Justice, Le Québec](#)
- [November 22, 1981: Telex from Jean Chrétien to Provincial Governments](#)
- [November 25, 1981: Memo from F.J.E. Jordan to I Minister of Justice re “Existing” Aboriginal and Treaty Rights](#)

Section 52(1): Supremacy of Charter

<p>July 4, 1980</p>	<p>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</p> <p>French Version</p>	<p>18. To the end that the paramountcy of this Charter be recognized and that full effect be given to the rights and freedoms herein declared, any law and any administrative act that is inconsistent with any provision of the Charter is, except as specifically otherwise provided in or as authorized by this Charter, inoperative and of no force or effect to the extent of the inconsistency.</p> <p>18. Vu la primauté de la présente Charte notamment quant au plein – donner aux droits et libertés qui y loi ou mesure administrative sont reconnus, incompatible avec la charte devient, sauf disposition</p>
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		contraire expresse de cette Charte ou autorisée par elle, inopérante dans la mesure de l'incompatibilité.
July 16, 1980	<u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u>	18. Any law or administrative act that is inconsistent with a provision of the Charter is inoperative and of no force or effect to the extent of the inconsistency.
August 5, 1980	<u>August 5, 1980: Revised Discussion Draft with Memo:</u>	26. Any law, order, regulation or rule that authorizes, forbids or regulates any activity or conduct in a manner inconsistent with this Charter is, to the extent of such inconsistency, inoperative and of no force or effect.
August 8, 1980	<u>August 8, 1980: Formalities to Bill: Joint Resolution</u>	Unchanged
August 22, 1980	<u>August 22, 1980: Discussion Draft (Federal)</u>	Unchanged.
August 28, 1980	<u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u>	Unchanged.
September 3, 1980	<u>September 3, 1980: Revised Discussion Draft:</u> <u>French Version</u>	24. Any law, order, regulation or rule that is inconsistent with the provisions of this Charter is, to the extent of such inconsistency, inoperative and of no force or effect. 24. Les règles de droits, lois, ordonnances, règlement ou règles qui sont incompatibles, avec les dispositions de la présente Charte sont inopérants, dans la mesure de cette incompatibilité.
September 24, 1980	<u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u>	English unchanged. 24. La présente charte rend inopérantes les dispositions incompatibles de toute autre règle de droit.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address</u>	25. Any law that is inconsistent with the provisions of this

	<u>to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 1]:</u>	Charter is, to the extent of such inconsistency, inoperative and of no force or effect. French unchanged.
October 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u>	25. Any law ^[of Parl. or a Legislature] that is inconsistent with the provisions of this Charter is, to the extent of such inconsistency, inoperative and of no force or effect. French unchanged.
Oct. 2, 1980	<u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u>	English same as Version 1: 25. Any law that is inconsistent with the provisions of this Charter is, to the extent of such inconsistency, inoperative and of no force or effect. French changed: 25. La présente charte rend inopérantes les dispositions incompatibles de toute autre règle de droit.
Nov. 12, 1980	<u>November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:</u>	25. Any law that is inconsistent with the provisions of the Constitution of Canada is, to the extent of such inconsistency, inoperative and of no force or effect. or Any law, other than the Constitution of Canada, that is inconsistent with the provisions of this Charter
Nov. 20, 1980	<u>November 20, 1980: Loose Drafts:</u>	ALTERNATIVE I 52. (1) The Constitution of Canada is the supreme law, all persons and institutions shall be

		<p>governed by it⁴⁴ are subject to it⁴⁵ and any law that is inconsistent with the provisions of it is, to the extent of the inconsistency, inoperative and of no force or effect.</p> <p>ALTERNATIVE II</p> <p>52. (1) Any law that is inconsistent with the provisions of the Constitution of Canada is, to the extent of the inconsistency, inoperative and of no force or effect.</p>
<p>Nov. 21, 1980</p>	<p><u>November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft</u></p>	<p>52. (1) The Constitution of Canada is the supreme law, and any law that is inconsistent with the provisions of it is, to the extent of the inconsistency, of no force or effect.</p> <p><i>["supreme law" is this clear]</i></p> <p><i>[NB Any law enacted prior to or subsequent for the coming into force of this Charter or Constitution]</i></p> <p><i>[This is very important.]</i></p> <p><i>[What about administrative action or is it covered by the remedies section?]</i></p>
<p>Nov. 24, 1980</p>	<p><u>November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u></p>	<p>52. (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.</p> <p>52. (1) La Constitution du Canada est la loi suprême; elle rend inopérantes les dispositions incompatibles de toute autre règle de droit.</p>

⁴⁴ Pen has square brackets around "shall be governed by it"

⁴⁵ Pen has square brackets around "are subject to it"

Nov. 25, 1980	<u>November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada</u>	Same.
Dec. 5, 1980	<u>December 5, 1980: Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	English version same as Nov. 24 version. French: "52. (1) La Constitution du Canada est la loi suprême du Canada et ces dispositions l'important sur les dispositions incompatibles de tout autres règles de droit."
Dec. 19, 1980	<u>December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada</u>	Same as Nov. 24 (English)
Dec. 30, 1980	<u>December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire</u>	French reverts back to Nov. 24 version after changing on Dec. 5
January 12, 1981	<u>January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:</u>	Same as Nov. 24 draft.

Further Reading – Discussions Surrounding Clause:

- [November 24, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- November 25, 1980: Memorandum to Ministers re: Possible Amendments to Proposed Resolution [[Version 1](#)] [[Version 2](#)]
- [November 28, 1980: Memorandum from Assistant Deputy Minister \(Public Law\) to Minister of Justice re Newfoundland Denominational Schools and Proposed Constitutional Resolution](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
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Property Rights

<p>July 4, 1980</p>	<p><u>July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>Property Rights</p> <p>9. (1) Everyone has the right to the use and enjoyment of property, individually or in association with others, and the right not to be deprived thereof except in accordance with law and for reasonable compensation.</p> <p>(2) Nothing in this section precludes the enactment of or renders invalid laws controlling or restricting the use of property in the public interest or securing against property the payment of taxes or other levies or penalties.</p> <p>(3) The rights declared by this section may be made subject only to such limitations prescribed by law in addition to those referred to in subsection (2) as are reasonably justifiable in a free and democratic society in the interests of national security or public safety, order, health or morals.</p> <p>9. (1) Toute personne a droit à la jouissance individuelle ou collective de ses biens et a le droit de n'en être privé que conformément à la loi et moyennant une compensation raisonnable.</p> <p>(2) Les dispositions du présent article n'ont pas pour effet d'interdire l'adoption d'une loi ou d'invalider une loi ayant pour objet de contrôler ou de restreindre l'usage de certains</p>
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		<p>biens dans l'intérêt public ou de garantir le paiement de taxes, pénalités ou autres droits par des restrictions au droit de propriété.</p> <p>(3) Les droits prévus par le présent article ne peuvent être limités, outre les cas prévus par le paragraphe (2), que dans une mesure, prescrite par la loi, qui est raisonnablement justifiable, dans une société libre et démocratique, par des raisons de sécurité nationale, ou de santé, de sécurité d'ordre ou de moralité publiques.</p>
July 16, 1980	<p><u>July 16, 1980: Revised Discussion Draft with Memo re Section 1:</u></p>	<p>9. (1) Everyone has the right to the use and enjoyment of property, individually or in association with others, and the right not to be deprived thereof except in accordance with law and for reasonable compensation.</p> <p>(2) Nothing in this section renders invalid laws controlling or restricting the use of property in the public interest or securing against property the payment of taxes or duties or other levies or penalties.</p>
August 5, 1980	<p><u>August 5, 1980: Revised Discussion Draft with Memo:</u></p>	n/a
August 8, 1980	<p><u>August 8, 1980: Formalities to Bill: Joint Resolution</u></p>	n/a
August 22, 1980	<p><u>August 22, 1980: Discussion Draft (Federal)</u></p>	<p>16. (2) Every citizen of Canada and every person who has the status of a permanent resident has the right</p> <p>[...]</p> <p>(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.</p>

<p>August 28, 1980</p>	<p><u>August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)</u></p>	<p>n/a</p>
<p>September 3, 1980</p>	<p><u>September 3, 1980: Revised Discussion Draft:</u></p> <p><u>French Version</u></p>	<p>14. (2) Everyone in Canada has the right</p> <p>[...]</p> <p>(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.</p> <p>14. (2) Toute personne a, au Canada, le droit:</p> <p>[...]</p> <p>b) d'acquérir des biens et de gagner sa vie dans toute province.</p>
<p>September 24, 1980</p>	<p><u>September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada:</u></p>	<p>n/a</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 1]:</u></p>	<p>n/a</p>
<p>October 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]:</u></p>	<p>n/a</p>
<p>Oct. 2, 1980</p>	<p><u>October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada</u></p>	<p>N/A</p>
<p>Dec. 12, 1980</p>	<p><u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting</u></p>	<p>"15. Everyone has the right to the enjoyment of property and the right not to be deprived thereof except in accordance with the</p>

	<u>Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]</u>	principles of fundamental justice." 15. Chacun a le droit de propriété; nul ne peut en être privé, si ce n'est en conformité avec les principes de justice fondamentale.
Dec. 12, 1980	<u>December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:</u>	15. Everyone has the right to the enjoyment of property and the right not to be deprived thereof except in accordance with law.
Dec. 12, 1980	<u>December 12, 1980: Draft [No Title]</u>	Same as Dec. 12 Annexes, COPY 1
Dec. 15, 1980	<u>December 15, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:</u>	Annex 11 is unavailable.

Further Reading—Discussions Surrounding Clause:

- [December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)

Preamble

June 6, 1980 (officially released on June 9 in <u>HOC</u>)	<u>June 6, 1980: A Statement of Principles for a New Constitution:</u>	We, the people of Canada, proudly proclaim that we are and shall always be, with the help of God, a free and self-governing people. Born of a meeting of the English and French presence on North American soil which had long been the home of our native peoples, and enriched by the contribution of millions of
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		<p>people from the four corners of the earth, we have chosen to create a life together which transcends the differences of blood relationships, language and religion, and willingly accept the experience of sharing our wealth and cultures, while respecting our diversity.</p> <p>We have chosen to live together in one sovereign country, a true federation, conceived as a constitutional monarchy and founded on democratic principles.</p> <p>Faithful to our history, and united by a common desire to give new life and strength to our federation, we are resolved to create together a new constitution which:</p> <p>shall be conceived and adopted in Canada, shall reaffirm the official status of the French and English languages in Canada, and the diversity of cultures within Canadian society, shall enshrine our fundamental freedoms, our basic civil, human and language rights, including the right to be educated in one's language, French or English, where numbers warrant, and the rights of our native peoples, and shall define the authority of Parliament and of the legislative assemblies of our several provinces.</p> <p>We further declare that our Parliament and provincial legislatures, our various</p>
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		<p>governments and their agencies shall have no other purpose than to strive for the happiness and fulfilment of each and all of us.</p> <p>Nous, le peuple du Canada, proclamons avec fierté que nous sommes et que nous voulons demeurer, avec l'aide de Dieu, un peuple libre et responsable de sa destinée.</p> <p>Issus de la rencontre du fait anglais et du fait français en terre d'Amérique, foyer ancestral de nos populations autochtones, et enrichis par l'apport de millions 'de Néo-Canadiens venus des quatre coins du globe, nous avons voulu vivre, par delà les frontières du sang, de la langue et de la religion, une aventure de partage économique et culturel dans le respect de notre diversité.</p> <p>Nous avons choisi de vivre ensemble dans un même pays souverain, au sein d'une véritable fédération, conçue comme une monarchie constitutionnelle et fondée sur les principes de la démocratie.</p> <p>Fidèles à notre passé et unis par une même volonté de redonner force et vitalité à notre fédération canadienne,</p>
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		<p>nous sommes convenus de nous doter d’une nouvelle constitution qui sera conçue et adoptée au Canada qui réaffirmera le caractère officiel de la langue française et de la langue anglaise au Canada et le pluralisme culturel de la société canadienne qui enchâssera nos libertés fondamentales, nos droits civils, humains et linguistiques, y compris le droit d’être éduqué dans sa propre langue française ou anglaise, là où le nombre le justifie, de même que les droits de nos populations autochtones et qui délimitera les compétences du Parlement et des Législatures des diverses provinces</p> <p>Nous déclarons en outre que notre Parlement et nos Législatures provinciales, nos divers gouvernements et leurs agences n’auront d’autres objectifs que de travailler au bonheur et à l’épanouissement de tous et chacun d’entre nous.</p>
<p>July 14-18, 1980</p>	<p><u>Continuing Committee of Ministers on the Constitution, Report on the Preamble/Principles of a Constitution</u></p>	<p>On this basis, the following themes or subjects were suggested by representatives of one or more governments.</p> <p>A – Framework or Organizing Themes</p>

		<p>1. Statement of who we are as people</p> <p>2. Statement of values we hold in common</p> <p>3. Statement of institutions and rights we have, or would have, to express and protect these values.</p> <p>B – Specific Subjects</p> <p>1. The notion that the “people” are involved in the process, perhaps even a principal source of sovereignty, e. g. “we, the people of Canada ... ”</p> <p>“we, the diverse peoples of Canada . . . ”</p> <p>(It was noted that this would be a significant departure from the preamble to the BNA Act.)</p> <p>2. References to the origins of the people (Historical and possibly specific)</p> <p>(There was also a view that there should be no precise historical references to origins, on the grounds that these inevitably invited recrimination and criticism.)</p> <p>3. References to the descendants of the original peoples (or to the native peoples)</p> <p>4. The idea of “nations” or “communities” (Opposition was also expressed to references to “nations”.)</p>
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		<p>5. Self-determination of provinces (There was also a recommendation that there be no such reference.)</p> <p>6. Dualism in Canada (There was also an explicit recommendation that dualism not be referred to.)</p> <p>7. Reference to the help or protection of the Almighty</p> <p>8. Reference to the confidence with which we face the future</p> <p>9. Reference to the diversity of Canada, of its people and of its cultures</p> <p>10. Reference to the goals of harmony among Canadians, and of the unity of Canada</p> <p>11. References to theme of conservation, to the careful stewardship of natural resources and to the development of human skills. (Strong concern was also voiced in regard to the nature of possible references to resources.)</p> <p>12. References to the physical beauty, magnitude and diversity of Canada</p> <p>13. References to the protection of the natural environment, in trust for future generations</p> <p>14. Reference to the rule of law and to justice</p> <p>15. In regard to rights and freedoms: a) a specific reference to the Universal Declaration of</p>
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		<p>Human Rights b) the dignity and worth of individuals c) freedoms, including free association and other basic civil, human and language rights d) non-discrimination and equality of sex, race, colour and creed e) if a Charter of Rights and Freedoms is entrenched in the Constitution, the references to rights should be brief or confined to a reference to the Charter itself; if there were no entrenchment, views ranged from the suggestion that the references should be more extensive to the recommendation that there be no references. (N.B. There was also a view that at this stage “freedom” should not be listed.)</p> <p>16 . References to federalism, the federation and/ or the federal system – possibly extensive</p> <p>17. Reference to constitutional monarchy</p> <p>18. Reference to the Parliamentary system and institutions</p> <p>19. Reference to democracy or democratic system or institutions (A caution was also expressed in regard to “democracy” as a misleading concept.)</p> <p>20. References to sharing of wealth, riches and cultures (A caution was expressed with regard to the sharing of wealth and riches.)</p>
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		<p>21. References to equity-equalization – and the suggestion that such references could be brief if a provision in regard to equalization were included in the Constitution</p> <p>22. Reference to the Canadian Economic Union, or Common Market, to economic co-operation or solidarity</p> <p>23. Reference to Canada’s international role and responsibilities, e.g . in regard to peace and justice (There was also a view that there should be no such reference)</p> <p>24. No reference, or implied and explicit references to Patriation of the Constitution.</p> <p>25. Reference to French and English as official languages of Canada</p> <p>26. Reference to provinces, to regions and to the Government of Canada</p> <p>27. References to the similarity in principle of the Canadian and United Kingdom constitutions (cf. Preamble of the BNA Act)</p>
<p>Summer of 1980 (previously from the 70s?)</p>	<p><u>Preamble Suggestions Submitted by ON</u></p>	<p>Proud of our heritage,</p> <p>Confident of our future,</p> <p>Acting of our sovereign will under God,</p> <p>We, as Canadians,</p>

		<p>Declare our common purposes:</p> <p>To establish the rule of justice</p> <p>To respect the dignity and worth of persons, families and communities</p> <p>To protect their rights in free association</p> <p>To foster the contribution of our native people and peoples from many lands towards our common destiny</p> <p>To honour each sex, race, colour and creed as equal</p> <p>To seek freedom from want for all of our people</p> <p>To preserve and share the wealth of the land and To defend for the freedom and enjoyment of future generations</p> <p>and</p> <p>To seek peace, through justice, in the world at large</p> <p>In recognition of these purposes</p> <p>We Therefore</p> <p>Establish institutions of a democratic, parliamentary, constitutional monarchy</p> <p>Choose federalism as the system for sharing government best suited to the achievement of unity in diversity</p> <p>Recognize our fundamental linguistic dualism, and</p>
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		<p>declare English and French to be our official languages</p> <p>and</p> <p>Proclaim our Constitution</p>
<p>August 13, 1980</p>	<p><u>August 13, 1980: Preamble and Fundamental Aims of the Constitution:</u></p>	<p>Preamble and Fundamental Aims of the Constitution</p> <p>WHEREAS THE PROVINCES OF Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, Ontario, Quebec and Saskatchewan have expressed their desire to remain freely united in a Federation [under the Crown of Canada], with a Constitution similar in principle to the present Constitution; AND WHEREAS</p> <p>CANADA is sovereign and independent among nations; AND WHEREAS</p> <p>THE RENEWAL of the Federation would promote the freedom and well-being of Canadians</p> <p>THE PARLIAMENT OF CANADA—</p> <p>TO GUARANTEE the fundamental rights and freedoms of Canadians;</p> <p>TO ENSURE that laws and political institutions are founded on the will and consent of the people;</p>

		<p>TO ACHIEVE social justice, more equal economic opportunity and greater cultural security for all Canadians;</p> <p>TO CONTRIBUTE to the attainment of these ends by all mankind —</p> <p>PROCLAIMS THAT THIS IS THE CONSTITUTION OF CANADA, hereby adopted and henceforth to be amended in Canada by Canadians.</p> <p>#2</p> <p>Joint Resolution</p> <p>– Begins:</p> <p>WHEREAS THE PROVINCES of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, Ontario, Quebec and Saskatchewan have expressed their desire to remain freely united in a Federation [under the Crown of Canada], with a Constitution similar in principle to the present Constitution; AND WHEREAS</p> <p>CANADA is sovereign and independent among nations; AND WHEREAS</p> <p>THE RENEWAL of the Federation would promote the freedom and well-being of Canadians</p> <p>THE SENATE AND THE HOUSE OF COMMONS OF</p>
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		<p>CANADA in Parliament assembled, wishing —</p> <p>TO GUARANTEE the fundamental rights and freedoms of Canadians;</p> <p>TO ENSURE that laws and political institutions are founded on the will and consent of the people;</p> <p>TO ACHIEVE social justice, more equal economic opportunity and greater cultural security for all Canadians;</p> <p>TO CONTRIBUTE to the attainment of these ends by all mankind —</p> <p>DESIRING THAT THE CONSTITUTION OF CANADA be adopted and henceforth be amendable solely in Canada and by Canadians</p> <p>RESOLVE THAT: “A respectful address ... etc.”</p> <p>#3</p> <p>Schedule</p> <p>1. The British North America Act, 1867, as amended, is further amended by replacing the title “THE BRITISH NORTH AMERICA ACT, 1867” with the following – “THE CANADIAN CONSTITUTION ACT, 1981”, and by deleting all the words before Section 1. and replacing them with the following heading and preamble:</p>
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		<p>Preamble and Fundamental Aims of the Constitution</p> <p>WHEREAS THE PROVINCES of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, Ontario, Quebec and Saskatchewan have expressed their desire to remain freely united in a Federation [under the Crown of Canada], with a Constitution similar in principle to the present Constitution; AND WHEREAS</p> <p>CANADA is sovereign and independent among nations; AND WHEREAS</p> <p>THE RENEWAL of the Federation would promote the freedom and well-being of Canadians</p> <p>THE FUNDAMENTAL AIMS OF THE CONSTITUTION SHALL BE:</p> <p>TO GUARANTEE the fundamental rights and freedoms of Canadians;</p> <p>TO ENSURE that laws and political institutions are founded on the will and consent of the people;</p> <p>TO ACHIEVE social justice, more equal economic opportunity and greater cultural security for all Canadians;</p> <p>AND</p>
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		<p>TO CONTRIBUTE to the attainment of these ends by all mankind.</p>
<p>August 26-29, 1980</p>	<p><u>Continuing Committee of Ministers on the Constitution, A Preamble to the Constitution, Federal Proposals</u></p>	<p>I. Considering the evolutionary nature of Canadian constitutional change, and the need for continuity, the Government of Canada believes much of the present preamble of the BNA Act (“Whereas the provinces” through “interests of the British Empire”) should be incorporated into the new <i>preamble</i> with the following changes:</p> <ol style="list-style-type: none"> 1. its language should be modernized where appropriate; 2. listing of the provinces should be ordered alphabetically in order to demonstrate that there are no “junior” provinces; 3. reference should be added that the provinces are <i>freely</i> united in the federation; 4. mention should be retained of the Crown, but as the Crown of <i>Canada</i> (rather than of the U.K.); 5. the constitution should be described as similar in principle to the <i>present</i> constitution of <i>Canada</i> (rather than to that of the U.K.); 6. reference should be added to Canada’s sovereignty and independence; and, 7. the present clause which refers to promoting “the interests of the British Empire” should be replaced with a clause which refers to promoting the

		<p>freedom and well-being of Canadians.</p> <p>II. To the new preamble should then be added a <i>statement of the fundamental aims of the Canadian constitution</i>. The Government of Canada believes this statement should be brief and basic – in the sense that each item included be both “timeless” enough and general enough to reflect within itself the many different concerns and priorities of different groups, and different generations, of Canadians .</p> <p>A. The government of Canada believes that virtually all the major concerns voiced at the CCMC’s ministerial discussions in Vancouver on the preamble can be reflected within the following brief list of broad and basic aims :</p> <ol style="list-style-type: none"> 1. the guarantee of fundamental rights and freedoms; 2. the democratic foundation of laws and political institutions on the will and consent of the people; 3. the achievement of greater social justice, equality of economic opportunity and cultural security; 4. the desire of Canada to contribute internationally to the attainment of these aims by others. <p>B. In addition to this short list of general aims, the Government of Canada considers that the new constitution also needs to</p>
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		<p>contain explicit statements of the following:</p> <ol style="list-style-type: none"> 1. Canada’s permanent national commitment to the endurance and self-fulfilment of the distinct French-speaking society centered in though not confined to Quebec; 2. Canada’s commitment to overcome unacceptable regional disparities through equalization; and, 3. the rights of the native peoples. <p>The Government of Canada believes that of these items, B.2 and B.3 should not be explicitly included in the preamble, because they can best be stated in specific sections of the new constitution dealing with equalization and, later on, native rights.</p> <p>In contrast, the constitution will deal with item B.1 in various ways under a number of different heads (e .g. official languages, Supreme Court, amending formula). This is one of the reasons that the Government of Canada holds the view that item B.1 should be stated explicitly in the preamble.</p>
<p>August 30, 1980</p>	<p><u>August 30, 1980: Memorandum for the Prime Minister, Preamble to the Constitution:</u></p>	<p>The issues on which the federal delegation was attempting to secure provincial agreement were as follows:</p> <ol style="list-style-type: none"> 1. Explicit acknowledgement that <u>the people</u> are the source of

		<p>authority for the continuance of the federal union.</p> <p>2. Agreement that there should be <u>no</u> implication in the preamble that the will of Canadians in regard to the continuance of the federation, or the existence of Canada, is dependent upon or expressed exclusively through "the provinces" (or the provincial governments).</p> <p>3. Recognition of the distinct French-speaking society in Canada <u>centred in ... Quebec.</u></p>
<p>September 8-12, 1980</p>	<p><u>September 8-12, 1980: Federal-Provincial Conference of First Ministers, Report of the Continuing Committee of Ministers on the Constitution to First Ministers, The Preamble:</u></p>	<p>a) Federal Government:</p> <p>[In accordance with the will of the citizens of Canada, the Government of Canada and the Governments of the Provinces of Canada have expressed their intention to remain freely united in a federation, as a sovereign and independent country, under the Crown of Canada]...</p> <p>b) British Columbia:</p> <p>(i) [The will of Canadians is that the Provinces of Canada choose to remain freely united in a federation with a federal government, as a sovereign and independent country, under the Crown of Canada]...</p> <p>(ii) [It is the will of Canadians that Canada remain united as a federation, as a sovereign and independent country, under the Crown of Canada]...</p>

		<p>c) Manitoba:</p> <p>[It is the will of Canadians to remain freely united in a federation of provinces, as a sovereign and independent country, under the Crown of Canada, with a federal [central] government...]</p> <p>d) Quebec:</p> <p>[In accordance with the will of Canadians, the Provinces of Canada choose to remain freely united in a federation, as a sovereign and independent country, under the Crown of Canada [all of which meets with the approval of the federal government]...]</p> <p>with a Constitution similar in principle to that which has been in effect in Canada.</p> <p>THE FUNDAMENTAL PURPOSE of the Federation [Constitution] is to preserve and promote freedom, justice and well-being for all Canadians, by:</p> <p>PROTECTING individual and collective rights, including those of the native people; *</p> <p>ENSURING that laws and political institutions are founded on the will and consent of the people;</p> <p>FOSTERING economic opportunity, and the security and fulfillment of Canada's diverse cultures;</p>
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		<p>[RECOGNIZING the distinct French-speaking society centred in though not confined to Quebec;]</p> <p>[RECOGNIZING the distinctive character of Quebec society with its French-speaking majority;]</p> <p>CONTRIBUTING to the freedom and well-being of all mankind.</p> <p>*This phrase is subject to acceptance by the native leadership</p>
<p>September 13, 1980</p>	<p><u>September 13, 1980: Government of Quebec, "A Proposal for a Common Stand of the Provinces.":</u></p>	<p><u>QUEBEC PROPOSAL</u></p> <p><u>PREAMBLE AND STATEMENT OF PURPOSE OF THE CONSTITUTION</u></p> <p>In accordance with the will of Canadians, it is the will of the provinces of Canada, in consort with the federal government, to remain freely united in a federation, as a sovereign and independent country, under the Crown of Canada, with a constitution similar in principle to that which has been in effect in Canada.</p> <p>THE FUNDAMENTAL PURPOSE of the Federation is to preserve and promote freedom, justice and well-being for all Canadians, by:</p> <p>PROTECTING individual and collective rights, including those of the native people; *</p>

		<p>ENSURING that laws and political institutions are founded on the will and consent of the people;</p> <p>FOSTERING economic opportunity, and the security and fulfillment of Canada's diverse cultures;</p> <p>RECOGNIZING the distinctive character of the people of Quebec which, with its French-speaking majority, constitutes one of the foundations of the Canadian duality;</p> <p>CONTRIBUTING to the freedom and well-being of all mankind.</p> <p>*This phrase is subject to acceptance by the native leadership</p>
<p>Summer-Fall, 1980?</p>	<p>Draft, Preamble:</p>	<p>[...] "freely maintained federation and ^{lof} a "distinct French-speaking society"</p> <p><u>"The citizens of Canada, or Canadians, wish their country to remain freely united as a sovereign and independent state..."</u></p> <p>[...]</p> <p>"...the contemporary and historical reality, quite important to <u>most</u> Canadians, of Canada's provincial dimension."</p>

		<p>“The [citizens of Canada], [or Canadians], <i>[Canadians inhabitant the various provinces and territories of Canada]</i> wish their country to remain freely united as a sovereign and independent state, <u>a federation of provinces</u> under the Crown...” etc.</p> <p>[...] -there’s a discussion here on “distinct French-speaking society”</p> <p>[...]</p> <p>“at line 8 of the best efforts draft: when to say the fundamental purpose “of the constitution” or “of the federation?”</p> <p>“If your strong preference is “of the constitution” you could argue that it is the more precise and appropriate reference for a constitutional preamble.”</p> <p>[You might want for Canada using both Constitution and federation so that [illegible] would read “the fundamental purpose of the constitution and of the federation” The rest of the text would follow better]</p>
<p>October 1980-February</p>	<p>Various Drafts</p>	<p><i>Omitted. Attempts by PC in Committee to create a preamble clause are rejected. Also mentioned in their dissenting (minority) report.</i></p>
<p>February 25, 1981</p>	<p><u>Feb 25, 1981--Memorandum for Ministers re: The Constitutional Resolution: A. Background Procedural Considerations B. The Constitutional Resolution: An amendment to incorporate a reference to a divine sanction:</u></p>	<p>“It is hereby affirmed that Canada is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free individuals and free individuals,</p>

		It is further affirmed that individuals and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law.”
Apr. 22, 1981	April 22, 1981: Memo from Mary Dawson to Roger Tassé [No Title]:	Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law « Attendu que le Canada est fondé sur des principes qui reconnaissent la suprématie de Dieu et la primauté du droit »
April 24, 1981	April 24, 1981: Consolidation of proposed constitutional resolution tabled by the Minister of Justice in the House of Commons on February 13, 1981 with the amendments approved by the House of Commons on April 23, 1981 and by the Senate on April 24, 1981:	Same
April-December	Various Drafts	Does not change

Further Reading – Discussions Surrounding Clause:

- [July 24, 1980: Report on the Preamble/Principles of a Constitution:](#)
- [August 26-29, 1980: First Ministers’ Conference, Indians and the Current Constitutional Discussions](#)
- [January 21, 1981: Memorandum From Fred Gibson to Prime Minister, Opposition Amendments to the Proposed Constitution Resolution](#)
- [February 23, 1981: Memorandum for the Prime Minister, The Constitutional Resolution: 1. Procedural Issues, 2. An amendment to incorporate a reference to a divine sanction for rights:](#)

Further Reading – General Charter:

- [June 16, 1980: Memorandum to Cabinet, "Towards a New Canadian Constitution: Federal Position on the Priority Items" \[Secret\]:](#)
- [July 24, 1980: Charter of Rights: Report to Ministers by Sub-Committee of Officials:](#)
- [August 15, 1980: Charter of Rights: Status Report](#)
- [August 20, 1980: Memorandum for the Prime Minister, Positions on the twelve Items for the CCMC and FMC:](#)

- [August 26-29, 1980: First Ministers' Conference, Indians and the Current Constitutional Discussions:](#)
- [August 29, 1980: Charter of Rights. Report to Ministers by Sub-Committee of Officials:](#)
- [August 30, 1980: Report to Cabinet on Constitutional Discussions, Summer 1980, and the Outlook for the First Ministers Conference and Beyond:](#)
- [September 8-12, 1980: Report of the Continuing Committee of Ministers on the Constitution to First Ministers. Charter of Rights:](#)
- [October 27, 1981: Memorandum to the Hon. Jean Chretien re First Ministers Conference:](#)
- [October 30, 1981: First Ministers' Conference on the Constitution - Briefing Book, Memorandum from Michael Kirby for the Prime Minister, The Federal Government's Final Compromise Offer: "](#)