

① Check with Roger with respect to
the new Section 27.

② Term 17 - should it be rejected or
extended for all matters affected by # 93

SUMMARY OF PROPOSED AMENDMENTS

TO JOINT RESOLUTION

ON THE CONSTITUTION

PRESENTED TO THE SPECIAL JOINT COMMITTEE

BY THE HONOURABLE JAKE EPP

TUESDAY, JANUARY 20, 1981

8:00 p.m. EST

Section 1 -- Guarantee of Rights of Freedoms

f. Affirming that the Canadian nation 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 institutions,

Affirming also that individuals and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law,

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.

Section 2 -- Fundamental Freedoms

2. Everyone has the following fundamental freedoms:
 - a) freedom of conscience and religion;
 - b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of information;
 - c) freedom of peaceful assembly;
 - d) freedom of association; and
 - e) freedom from unreasonable interference with privacy, family, home, correspondence, and enjoyment of property.

Section 5

Present Section 5 becomes 4(3).

New Section 5 -- Right to Information

5. Everyone has the right to have reasonable access to information in the possession of any institution of any government.

Section 9 -- Legal Rights

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

Section 11 -- Legal Rights

11. Any person charged with an offence has the right ...
- (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 principles of law recognized by the community of nations;

Section 14 -- Legal Rights

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.

Section 15 -- Equality Rights

- 15(1). Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.
- 15(2). Subsection (1) does not preclude any statutory distinction that has as its object the amelioration of the condition of any class of persons.

*Should this not
come in the amending
section.*

New Section to Follow Section 20

Official Languages of Canada

- 21(1) The legislative assembly of each province to which subsection 16(2), 17(2), 18(2), 19(2) or 20(2) does not expressly apply may, by resolution, authorize the issuance by the Governor General of a proclamation under the Great Seal of Canada declaring that any of those provisions
- (a) has application in the province; or
 - (b) has application in the province to the extent and under the conditions stated in the resolution.
- 21(2) Where the legislative assembly of a province authorizes the issuance of a proclamation declaring that a subsection referred to in subsection (1) has application in the province, the proclamation may be issued notwithstanding any other provision of this Act respecting the procedures for amending the Constitution of Canada and shall
- (a) if the subsection is to apply in the province without any limitations or conditions, amend the subsection to include the province as a province named in the subsection; or
 - (b) if the subsection is to apply in the province to the extent or under conditions stated in the resolution authorizing the issue of the proclamation, subject to section 22 so apply in the province and for purposes of amendment be deemed to be a provision of the Constitution of Canada that applies to one or more but not all provinces.

New Section to Precede Clause 24

Enforcement

- 26(1). No provisions 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(2). Notwithstanding subsection (1), in any proceedings, evidence shall be excluded if it is established that it was obtained under such circumstances that the use of it in the proceedings would tend to bring the administration of justice into disrepute.

Section 25 -- General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of
- (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 Royal Proclamation of October 7, 1763; or
 - (b) any rights or freedoms that may pertain to any cultural community; or
 - (c) any other rights or freedoms that may exist in Canada.

New Section -- To Follow Section 26

No provision of this Charter affects, or abrogates or derogates from Section 17 of the Schedule to the Newfoundland Act.

New Section -- To Precede Section 27

Nothing in this Charter affects the authority of
Parliament to legislate in respect of abortion and
capital punishment.

New Section to Follow Section 28

Obligation to Examine Regulations and Bills

- 29(1). The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor General in Council, examine every regulation transmitted to the Clerk of the Privy Council for registration and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Charter and shall report any such inconsistency to the House of Commons at the first convenient opportunity.
- 29(2). The Attorney General of a province shall, in accordance with such regulations as may be prescribed by the Lieutenant Governor in Council of the province, examine every proposed regulation in draft form and every Bill introduced in or presented to the legislative assembly of the province in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Charter and shall report any such inconsistency to the legislative assembly at the first convenient opportunity.

Section 32 -- Renewal of the Canadian Constitution

32(1). No later than two months after the coming into force of this Act, the Prime Minister of Canada and the first ministers of the provinces shall constitute a permanent conference to be designated the "Constitutional Conference of Canada" hereinafter referred to as the "Conference".

32(2). The Conference shall examine all Canadian constitutional laws and propose amendments necessary for the development of the Canadian federation.

32(3). The Conference shall meet at least twice each year.

32(4). The Conference shall be assisted by the "Continuing Committee of Ministers on the Constitution." *without officials*

Section 33-40 -- (Part IV)

INTERIM AMENDING FORMULA
To be omitted.

AMENDMENTS : STATEMENTS BY NON-STAKE EPP

Section 41 -- General Amending Procedure

- 41(1). An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by
- (a) resolutions of the Senate and House of Commons; and
 - (b) resolutions of the legislative assemblies of at least two thirds of the provinces that have in the aggregate, according to the then latest general census, a population of at least fifty per cent of the population of all of the provinces.
- 41(2). Where an amendment to the Constitution of Canada is authorized under subsection (1) that affects
- (a) the powers of the legislature of a province to make laws,
 - (b) the rights or privileges granted or secured by the Constitution of Canada to the legislature or the government of a province,
 - (c) the assets or property of a province, or
 - (d) the natural resources of a province, and the legislative assembly of a province has, by resolution, declined to authorize the amendment prior to the issue of the proclamation bringing it into force, the amendment has no effect in the province until the legislative assembly of the province by resolution approves the amendment.

41(3). An amendment to this section may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the ^{House of Commons & Senate} legislative assembly of eight or more provinces that have, in the aggregate, according to the then latest general census, a population of at least eighty per cent of the population of all of the provinces.

Section 42

"REFERENDUM PROCEDURE"

To be deleted.

Section 44

Senate role in "Amendment without Senate
resolution" to be omitted.

Section 46

"REFERENDUM RULES"

To be omitted.

Section 47

"Limitation of General Amending Procedure"

47(1). The procedures prescribed by Section 41 or 43 do not apply to an amendment to the Constitution of Canada where there is another provision in the Constitution for making the amendment, but the procedures prescribed by Section 41 shall, nevertheless, be used to amend any provision for amending the Constitution, other than Section 41, but including this section.

47(2). The procedures prescribed by Section 41 do not apply in respect of an amendment referred to in Section 43.

Section 48 -- Amendments by Parliament

48. Subject to Section 50 Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the House of Commons.

Section 50

Matters Requiring Amendment Under General
Amendment Procedure

50. An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with a procedure prescribed by section 41:
- (a) the office of the Queen and Her status as head of state of Canada and of the provinces and the office of the Governor General and the Lieutenant Governor of a province;
 - (b) the Canadian Charter of Rights and Freedoms;
 - (c) the commitments relating to equalization and regional disparities set out in Section 31;
 - (d) the Senate;...

Section 51 -- Consequential Amendments

51. Class 1 of Section 91 and class 1 of Section 92 of the Constitution Act, 1867 (formerly named the British North America Act, 1867, the British North America (No. 2) Act, 1949, referred to in item 22 of Schedule 1 to this Act, are repealed.

AMENDMENTS: STATEMENTS BY HON. JAKE EPP

Section 57 -- Commencement

57. This Act shall come into force on a day to be fixed by proclamation issued the Governor General under the Great Seal of Canada.

Section 58

"Exception Respecting Amending Procedure"

To be deleted.