

Comparison of "Vancouver Formula" and "Premiers' Accord"

1. The "Premiers' Accord" established a sun-set provision for a resolution to amend the Constitution (three years); Vancouver did not.
2. The "Premiers' Accord" provides for "reasonable compensation" for a province that opts-out of an amendment; Vancouver did not.
3. The "Premiers' Accord" provides a 180-day suspensive veto for the Senate over constitutional amendments; the suspensive veto in Vancouver was 90 days.
4. The "Premiers' Accord" provides that unanimous consent is required for amendments respecting:
 - a) the office of the Queen, of the Governor General or of the Lieutenant Governor;
 - b) the right of a province to a number of members in the House of Commons not less than the number of Senators representing the province at the time this provision comes into force;
 - c) the use of the English or French language (except for the use of English or French within a province, which could be amended by Parliament and the provincial legislature in question);
 - d) the composition of the Supreme Court of Canada;
 - e) an amendment to any of the provisions of this Part.

The "Premiers' Accord" further provides that the following matters may only be made under the general formula with no opting-out:

- a) the principle of proportionate representation of the provinces in the House of Commons;
- b) the powers of the Senate and the method of selection of members thereto;
- c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
- d) the Supreme Court of Canada (except with respect to the composition of the Court);

- e) the extension of existing provinces into the Territories;
- f) notwithstanding any other law or practice, the establishment of new provinces;
- g) an amendment to any of the provisions of Part B (delegation of legislative authority).

Vancouver provided only that the general amending formula with no opting-out would apply to the following matters:

- a) the office of the Queen, of the Governor General and of the Lieutenant-Governor;
 - b) the requirements of the Constitution of Canada respecting yearly sessions of the Parliament of Canada and the Legislatures;
 - c) the maximum period fixed by the Constitution of Canada for the duration of the House of Commons and the Legislative Assemblies;
 - d) the powers of the Senate;
 - e) the number of members by which a Province is entitled to be represented in the Senate and the residence qualifications of Senators;
 - f) the right of a Province to a number of members in the House of Commons not less than the number of Senators representing the Province;
 - g) the principles of Proportionate representation of the Provinces in the House of Commons prescribed by the Constitution of Canada, and
 - h) the use of the English or French language.
5. The "Premiers' Accord" provides for a Constitutional Conference to review the amending procedure 15 years after the enactment of the patriation package; Vancouver did not.
6. The "Premiers' Accord" does not provide a schedule of enactments to be known collectively as the Constitution of Canada; Vancouver did have such a provision.

PART A

AMENDING FORMULA FOR THE CONSTITUTION OF CANADA

1. (1) Amendments to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada when 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 latest decennial census, at least fifty per cent of the population of all of the provinces.
- (2) Any amendment made under subsection (1) derogating from the legislative powers, the proprietary rights or any other rights or privileges of the Legislature or government of a province shall require a resolution supported by a vote of a majority of the Members of each of the Senate, of the House of Commons, and of the requisite number of Legislative Assemblies.
- (3) Any amendment made under subsection (1) derogating from the legislative powers, the proprietary rights, or any other rights or privileges of the Legislature or government of a Province shall not have effect in any province whose Legislative Assembly has expressed its dissent thereto by resolution supported by a majority of the Members prior to the issue of the proclamation, provided, however, that Legislative Assembly, by resolution supported by a majority of the Members, may subsequently withdraw its dissent and approve the amendment.

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2. (1) No proclamation shall issue under section 1 before the expiry of one year from the date of the passage of the resolution initiating the amendment procedure, unless the Legislative Assembly of every province has previously adopted a resolution of assent or dissent.
 - (2) No proclamation shall issue under section 1 after the expiry of three years from the date of the passage of the resolution initiating the amendment procedure.
 - (3) Subject to this section, the Government of Canada shall advise the Governor General to issue a proclamation forthwith upon the passage of the requisite resolutions under this Part.
3. In the event that a province dissents from an amendment conferring legislative jurisdiction on Parliament, the Government of Canada shall provide reasonable compensation to the government of that province, taking into account the per capita costs to exercise that jurisdiction in the provinces which have approved the amendment.
 4. Amendments to the Constitution of Canada in relation to any provision that applies to one or more, but not all, of the provinces, including any alteration to boundaries between provinces or the use of the English or the French language within that province may be made only by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and the Legislative Assembly of every province to which the amendment applies.

5. An amendment may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the passage by the House of Commons of a resolution authorizing its issue, the Senate has not passed such a resolution and if, after the expiration of those one hundred and eighty days, the House of Commons again passed the resolution, but any period when Parliament is dissolved shall not be counted in computing the one hundred and eighty days.
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 - (1) The procedures for amendment may be initiated by the Senate, by the House of Commons, or by the Legislative Assembly of a province.
 - (2) A resolution authorizing an amendment may be revoked at any time before the issue of a proclamation.
 - (3) A resolution of dissent may be revoked at any time before or after the issue of a proclamation.
7. Subject to sections 9 and 10, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.
8. Subject to section 9, the Legislature of each province may exclusively make laws amending the constitution of the province.
9. Amendments to the Constitution of Canada in relation to the following matters may be made only by proclamation issued by the Governor General under the Great Seal of

Canada when authorized by resolutions of the Senate and House of Commons and of the Legislative Assemblies of all of the provinces:

- (a) the office of the Queen, of the Governor General or of the Lieutenant Governor; ✓
 - (b) the right of a province to a number of members in the House of Commons not less than the number of Senators representing the province at the time this provision comes into force;
 - (c) the use of the English or French language except with respect to section 4; ✓
 - (d) the composition of the Supreme Court of Canada;
 - (e) an amendment to any of the provisions of this Part.
10. Amendments to the Constitution of Canada in relation to the following matters shall be made in accordance with the provisions of section 1(1) of this Part and sections 1(2) and 1(3) shall not apply.
- (a) the principle of proportionate representation of the provinces in the House of Commons;
 - (b) the powers of the Senate and the method of selection of members thereto;
 - (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(d) the Supreme Court of Canada, except with respect to clause (d) of section 9;

(e) the extension of existing provinces into the Territories;

DELEGATION OF LEGISLATIVE JURISDICTION

(f) notwithstanding any other law or practice, the establishment of new provinces;

(g) an amendment to any of the provisions of Part B.

11. A constitutional conference composed of the Prime Minister of Canada and the First Ministers of the provinces shall be convened by the Prime Minister of Canada within fifteen years of the enactment of this Part to review the provisions for the amendment of the Constitution of Canada.

PART B

DELEGATION OF LEGISLATIVE AUTHORITY

1. Notwithstanding anything in the Constitution of Canada, Parliament may make laws in relation to a matter coming within the legislative jurisdiction of a province, if prior to the enactment, the Legislature of at least one province has consented to the operation of such a statute in that province.
2. A statute passed pursuant to section 1 shall not have effect in any province unless the Legislature of that province has consented to its operation.
3. The Legislature of a province may make laws in the province in relation to a matter coming within the legislative jurisdiction of Parliament, if, prior to the enactment, Parliament has consented to the enactment of such a statute by the Legislature of that province.
4. A consent given under this Part may relate to a specific statute or to all laws in relation to a particular matter.
5. A consent given under this Part may be revoked upon giving two years' notice, and
 - (a) if the consent was given under section 1,

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any law made by Parliament to which the consent relates shall thereupon cease to have effect in the province revoking the consent, but the revocation of the consent does not affect the operation of that law in any other province;

(b) if the consent was given under section 3, any law made by the Legislature of a province to which the consent relates shall thereupon cease to have effect.

6. In the event of a delegation of legislative authority from Parliament to the Legislature of a province, the Government of Canada shall provide reasonable compensation to the government of that province, taking into account the per capita costs to exercise that jurisdiction.

7. In the event of a delegation of legislative authority from the Legislature of a province to Parliament, the government of the province shall provide reasonable compensation to the Government of Canada, taking into account the per capita costs to exercise that jurisdiction.