

THE RESOLUTION AS AMENDED BY THE
FIRST MINISTERS AGREEMENT

1. Procedure for amendment to the Charter except
use of French and English:

Seven provinces with 50% of the population and Parliament could adopt an amendment. *1.0. got rid of "withstanding", but*

If the amendment derogates from legislative powers (by further limiting provincial powers to strengthen rights), up to three provinces could opt out. They can only opt out by adopting a resolution in the legislative assembly supported by a majority of its members. ←

In the face of one or two or three provinces opting out, Parliament could withdraw its support of the amendment - if it wanted to prevent a "cherkerboard" situation.

2. Procedure for amendment to language guarantees in respect of federal institutions:

Provisions of the Charter relating to use of French and English in Parliament, national institutions, can be amended only with unanimous consent of all provinces and Parliament.

3. Procedure for amendment to language guarantees that apply to one or more but not all provinces:

These provisions of the Charter can be amended only with consent of Parliament and the provinces concerned.

For example, in the case of S. 133 (Quebec) Quebec and Parliament would have to agree. Same rule in respect of new provisions concerning New Brunswick. Ontario and Parliament could agree on bringing all or any of the guarantees in force in Ontario.

4. Natives

The interpretation of Section 25 remains: aboriginal rights and freedoms that may exist are not affected by the Charter.

The section recognizing the aboriginal rights is deleted.

There is a constitutional requirement for a conference of first ministers to take place within a year to discuss aboriginal rights.

5. Procedure for amendment to minority language education right

If section applies to all provinces, an amendment would require unanimous consent.

If section were not to apply to all, an amendment could be made by the consent of the provinces to which the amendment would apply. Most provincial representatives, at last night's meeting, indicated that this would be wrong and that in such event a special rule should be enacted providing that an amendment could only be made with the consent of all provinces to which S. 23 applies.

*until Charter is
in, any can get
out!*

6. Multiculturalism

Section 27 provides that the Charter is to be interpreted in a manner consistent with the preservation and enhancement of our multicultural heritage. The "override" section does not apply to this section as such.

The "override", however, could be used to prevent the operation of a Charter right as may have been interpreted with the aid of Section 27. In other words, if a court were to give a content to the right to non-discrimination (Section 15) because of Section 27, a legislature could pass legislation to "non-obstante" that right.

non-acceptable