

**PRIMARYDOCUMENTS.CA**  

---

**DOCUMENTSPRIMAIRES.CA**

**SECTION 11**  
**Rights of the Accused**

---

Compilation of primary documents to assist in interpreting the public  
meaning of Section 11 of the *Constitution Act, 1982*

---

**Second Edition**

**August, 2025**



### Short Table of Contents

---

<b>Part 1</b>	The Drafting History of the Charter of Rights and Freedoms Pertaining to Section 11's Public Meaning	<b>4</b>
<b>Part 2</b>	Incomplete: not yet available	
<b>Part 3</b>	Incomplete: not yet available	

---



**The Constitution Act, 1982**  
Part I. Canadian Charter of Rights and Freedoms  
Legal Rights

Proceedings in criminal and penal matters

**Section 11** *Any person charged with an offence has the right*

- (a) to be informed without unreasonable delay of the specific offence;*
- (b) to be tried within a reasonable time;*
- (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;*
- (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;*
- (e) not to be denied reasonable bail without just cause;*
- (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;*
- (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;*
- (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and*
- (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.*

## ***PART 1:***

### **Drafting History of the Charter of Rights and Freedoms Pertaining to Section 11's Public Meaning**

#### **Drafts of the Charter of Rights and Freedoms:**

- January 8, 1979:** Canadian Charter of Rights & Freedoms, Federal Draft, tabled at Meeting of Officials on the Constitution, (January 11-12, 1979)
- October 17, 1979:** Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Continuing Committee of Ministers on the Constitution (October 22-23, 1979)
- November 5, 1979:** Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Meeting of Officials on the Constitution (November 15-16, 1979)
- July 4, 1980:** Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft (July 8-11, 1980)
- July 4, 1980:** Comité Permanent des Ministres sur la Constitution, Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail (July 8-11, 1980)
- July 16, 1980:** Revised Discussion Draft with Memo re Section 1 (July 18, 1980)
- August 5, 1980:** Revised Discussion Draft with Memo (August 5, 1980)
- August 8, 1980:** Formalities to Bill: Joint Resolution (August 8, 1980)
- August 22, 1980:** Discussion Draft (Federal) (August 26-29, 1980)
- August 28, 1980:** Provincial Proposal (In the event that there is going to be entrenchment) (August 26-29, 1980)
- September 3, 1980:** Revised Discussion Draft (September 8-12, 1980)
- September 3, 1980 :** Conference Fédérale-Provinciale des Premiers Ministres, Document de Travail, Charte Canadienne des Droits et Libertés (September 3, 1980)
- September 24, 1980:** Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada (September 24, 1980)
- October 2, 1980:** Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1] (October 2, 1980)
- 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] (October 2, 1980)
- October 2, 1980:** Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada
- November 12, 1980:** Memorandum from Mary Dawson to F.J.E. Jordan (November 12, 1980)
- November 14, 1980:** Memo from E.I. MacDonald to Deputy Minister [Amendments] (November 14, 1980)
- November 17, 1980:** Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada (November 17, 1980)
- November 20, 1980:** Annex [No Title] Draft (November 20, 1980)
- November 20, 1980:** Loose Drafts (November 20, 1980)
- November 21, 1980:** Appendices: Some French Text and Corrections to Follow Draft (November 21, 1980)

**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 (November 24, 1980)

**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 (November 24, 1980)

**December 2, 1980:** Memo from Senior Counsel (Public Law) to Deputy Minister re Charter of Rights and Right Against Self-Crimination (December 2, 1980)

**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 5, 1980)

**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 (December 5, 1980)

**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] (December 12, 1980)

**December 12, 1980:** Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Pro-posed Resolution on Constitution of Canada [Version 2] (December 12, 1980)

**December 12, 1980:** Draft [No Title]

**December 19, 1980:** Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada (December 19, 1980)

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

**January 9-12, 1981:** Briefing Book for Clause by Clause Consideration of the Resolution (January 1981)

**January 12, 1981:** Version formally presented to Special Joint Committee by Jean Chretien (January 12, 1981)

**February 13, 1981:** Special Joint Committee, Final Report Submitted to Parliament (February 13, 1980)

**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 (April 24, 1980)

**Statutes and International Agreements:**

1978: Bill C-60: An Act to amend the Constitution of Canada

*[This section is incomplete]*

-----o0o-----

## Drafts of the Charter of Rights and Freedoms

### January 8, 1979: Canadian Charter of Rights & Freedoms, Federal Draft, tabled at Meeting of Officials on the Constitution, (January 11-12, 1979)

- 2 (e) the right as an accused person
- (i) to be informed of the specific charge,
  - (ii) to be tried within a reasonable time,
  - (iii) to be presumed innocent until proven guilty in a fair and public hearing by an independent and impartial tribunal,
  - (iv) not to be denied reasonable bail without just cause having been established, and
  - (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;
  - (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;
  - (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 conviction;
  - (h) the right not to be subjected to any cruel or inhuman treatment or punishment;
  - (i) the right not to give evidence before any court, tribunal, commission, board or other authority, if unreasonably denied counsel or if denied protection against self-crimination or other constitutional safeguard
  - (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; and
  - (k) the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his or her rights or obligations.

(Source: Meeting of Officials on the Constitution, *Canadian Charter of Rights & Freedoms, Federal Draft*, [January 8, 1979] (Ottawa: 11-12 January, 1979). Click [HERE](#))

-----oO-----

**October 17, 1979: Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Continuing Committee of Ministers on the Constitution (October 22-23, 1979)**

- (e) the right of a person charged with an offence
  - (i) to be informed of the specific charge,
  - (ii) to be tried within a reasonable time,
  - (iii) to be presumed innocent until proven guilty in a fair and public hearing by an independent and impartial tribunal,
  - (iv) not to be denied reasonable bail without just cause having been established, and
  - (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;
- (f) the right not be tried or punished more than once for an offence of which he or she has been finally convicted or acquitted;
- (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;
- (h) the right not to be subjected to any cruel and inhuman treatment or punishment;
- (i) the right, when compelled to give evidence, to counsel, to protection against self-crimination and to any other constitutional safeguard; and
- (j) the right to the assistance of an interpreter in proceedings before a court or tribunal, if the accused or witness does not understand or speak the language in which the proceedings are conducted.

(Source: Continuing Committee of Ministers on the Constitution, *Rights and Freedoms within the Canadian Federation Federal Draft*, [October 17, 1979] (Halifax: 22-23 October, 1979). Click [HERE](#))

-----o0o-----

**November 5, 1979: Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Meeting of Officials on the Constitution (November 15-16, 1979)**

- (e) the right of a person charged with an offence
  - (i) to be informed of the specific charge,

- (ii) to be tried within a reasonable time,
- (iii) to be presumed innocent until proven guilty in a fair and public hearing by an independent and impartial tribunal,
- (iv) not to be denied reasonable bail without just cause having been established, and
- (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;
- (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;
- (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;
- (h) the right not to be subjected to any cruel and inhuman treatment or punishment;
- (i) the right, when compelled to give evidence, to counsel, to protection against self-crimination and to any other constitutional safeguard; and
- (j) the right to the assistance of an interpreter in proceedings before a court or tribunal, if the accused or witness does not understand or speak the language in which the proceedings are conducted.

(Source: Meeting of Officials on the Constitution, Rights & Freedoms within Canadian Federation, *Federal Draft*, [November 5, 1979], Doc 840-177/005 (Toronto: 15-16 November, 1979). Click [HERE](#))

-----oOo-----

#### **July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft**

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:

[...]

- e) the right of a person charged with an offence
  - (i) to be informed of the specific charge,
  - (ii) to be tried within a reasonable time,
  - (iii) to be presumed innocent until proven guilty in a fair and public hearing by an independent and impartial tribunal,
  - (iv) not to be denied reasonable bail without just cause having been established, and
  - (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;

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;

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;

h) the right not to be subjected to any cruel and unusual treatment or punishment;

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;

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.

(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.

(Source: Meeting of the Continuing Committee of Ministers on the Constitution, *Rights and Freedoms within the Canadian Federation, Discussion Draft. Tabled by the Delegation of the Government of Canada, 4 July 1980, Doc 830-81/027 (Montreal: 8-11 July 1980). Click [HERE](#).)*

-----o0o-----

## July 16, 1980: Revised Discussion Draft with Memo re Section 1

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:

[...]

e) the right of a person charged with an offence

(i) to be informed of the specific charge,

(ii) to be tried within a reasonable time,

(iii) to be presumed innocent until proven guilty in a fair and public hearing by an independent and impartial tribunal,

(iv) not to be denied reasonable bail without just cause having been established, and

(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;

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;

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;

h) the right not to be subjected to any cruel and unusual treatment or punishment;

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;

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.

(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.

(Source: Memo from Fred Jordan to Roger Tassé re Charter of Rights – Possible Modifications [with Possible Alternatives to Section 1 of July 4, 1980 Draft & Revised Discussion Draft (16 July 1980)] (18 July 1980). This text is found on p. 2. Click [HERE](#).)

-----oOo-----

### **August 5, 1980: Revised Discussion Draft with Memo**

11. Everyone accused of an offence has the right

(a) to be informed promptly of the specific offence;

(b) to be tried within a reasonable time;

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

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

(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,

(f) not to be tried or punished more than once for an offence of which the person has been finally convicted or acquitted; and

(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.

(Source: Memo from Deputy Minister of Justice to Prime Minister, Charter of Rights incl. Discussion Draft, The Canadian Charter of Rights and Freedoms (5 August 1980). Click [HERE.](#))

-----o0o-----

### **August 8, 1980: Formalities to Bill: Joint Resolution**

11. Everyone accused of an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail without just cause;
  - (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,
  - (f) not to be tried or punished more than once for an offence of which the person has been finally convicted or acquitted; and
  - (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.

(Source: Canada, Formalities to Bill, Draft Joint Resolution, An Act to Amend the Constitution of Canada (8 August 1980). Click [HERE.](#))

-----o0o-----

### **August 22, 1980: Discussion Draft (Federal)**

11. Anyone charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail without just cause;

(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;

(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

(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.

14. A witness has the right not to be compelled to testify if denied the right to consult counsel.

(Source: Continuing Committee of Ministers on the Constitution, *The Canadian Charter of Rights and Freedoms, Discussion Draft [Federal]*, (August 22, 1980), Doc 830-84/004 (Ottawa: 26-29 August 1980). Click [HERE](#).)

-----o0o-----

### **August 28, 1980: Provincial Proposal (In the event that there is going to be entrenchment)**

9. Anyone charged with an offence has the right

(a) to be informed promptly of the specific offence;

(b) to be tried within a reasonable time;

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

(d) not to be denied pre-trial release except on grounds provided by law and in accordance with prescribed procedures;

(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;

(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

(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.

(Source: Continuing Committee of Ministers on the Constitution, *Provincial Proposal: The Canadian Charter of Rights and Freedoms* (August 28, 1980), Doc 830-84/031 (Ottawa: 26-29 August, 1980). Click [HERE](#).)

-----o0o-----

### September 3, 1980: Revised Discussion Draft

10. Anyone charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail without just cause;
  - (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;
  - (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
  - (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.

(Source: Federal-Provincial First Ministers' Conference, *The Canadian Charter of Rights and Freedoms, Revised Discussion Draft, Federal*, [September 3, 1980] Doc 800-14/064 (Ottawa: 8-12 September 1980). Click [HERE](#).)

-----oOo-----

### September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada

10. Anyone charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail without just cause;
  - (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;

(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

(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.

(Source: Canada, Parliament, DRAFT, “Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada” (24 September 1980). Click [HERE.](#))

-----o0o-----

**October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]**

10. Anyone charged with an offence has the right

(a) to be informed promptly of the specific offence;

(b) to be tried within a reasonable time;

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

(d) not to be denied reasonable bail ~~without just cause~~ [except on grounds + in accordance with procedures, established by law],,,

(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;

(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

(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.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 1 (2 October 1980). Click [HERE.](#))

-----o0o-----

**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]**

10. Anyone charged with an offence has the right

(a) to be informed promptly of the specific offence;

- (b) to be tried within a reasonable time;
- (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- (d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;
- (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;
- (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
- (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.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 2 with Handwritten Notes (2 October 1980). Click [HERE](#).)

-----oOo-----

### **October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada**

11. Anyone charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;
  - (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;
  - (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
  - (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.

(Source: Canada, Parliament, "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" in *Sessional Papers* (1980). Click [HERE](#).)

-----o0o-----

**November 12, 1980: Memorandum from Mary Dawson to F.J.E. Jordan:**

Changes Agreed to:

(f) not to be tried or punished more than once for an offence of which that person has been finally convicted or acquitted

(g) to the benefit of the lesser punishment where the punishment for an offence of which that person has been convicted has been varied between the time of commission and the time of sentencing

Recommended Changes:

(a) to be informed promptly of the offence with which that person is charged.

"Parallel construction to (f) and (g). Completes the thought."

(Source: Memorandum from Mary Dawson to F.J.E. Jordan (12 November 1980). Click [HERE](#).)

-----o0o-----

**November 14, 1980: Memo from E.I. MacDonald to Deputy Minister [Amendments]:**

11. Anyone charged with an offence has the right

(a) to be informed promptly of the specific offence;

(b) to be tried within a reasonable time;

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

(d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;

(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;

(f) not to be tried or punished more than once for an offence of which the person has been finally convicted or acquitted; and

(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.

(Source: Memo from E.I. MacDonald to Deputy Minister [with Proposed Amendments] (14 November 1980). Click [HERE](#).)

-----o0o-----

### **November 17, 1980: Draft, Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada:**

11. Anyone charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;
  - (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;
  - (f) not to be tried or punished more than once for an offence of which the person has been finally convicted or acquitted; and
  - (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.

(Source: Memorandum to Ministers re: Possible Amendments to proposed Resolution on Constitution of Canada (17 November 1980). Click [HERE](#).)

-----o0o-----

### **November 20, 1980: Annex [No Title] Draft:**

(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<sup>1</sup> years or a more severe punishment

---

<sup>1</sup> The word "ten" is circled and there's also a question mark scratched out.

(Source: [Department of Justice?], Annex [Drafts] (20 November 1980). Click [HERE](#).)

-----o0o-----

**November 20, 1980: Loose Drafts:**

11. Anyone charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;
  - (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;
  - (f) not to be tried or punished more than once for an offence of which the person has been finally convicted or acquitted; and
  - (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.

(Source: [Department of Justice?], [Loose] Annex [Drafts] (20 November 1980). Click [HERE](#).)

-----o0o-----

**November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft**

- (d) not to be denied reasonable bail without just cause;
- (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 under domestic or international law;<sup>2</sup>
- (f) not to be tried or punished more than once for an offence<sup>3</sup> which that person has, in Canada, been finally convicted or acquitted.”

--

---

<sup>2</sup> There is some text written in column, but not related to the wording.

<sup>3</sup> There is the word “offence” written under this clause, while the word “office” is underlined to show that it is a mistake.

(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~~<sup>[five]</sup> years or a more severe punishment;

(Source: [Department of Justice?], Appendices: Some French Text and Corrections to Follow Draft (21 November 1980). Click [HERE](#).)

-----o0o-----

**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<sup>4</sup>**

(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~~<sup>[five]</sup> years or a more severe punishment;

--

(f) not to be tried or punished more than once of<sup>[or]</sup> an offence of which the person has, in Canada, been finally convicted or acquitted;

---

(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,

(Source: Annexes du Mémoire au Cabinet du Ministre de la Justice daté du 24 novembre 1980 concernant la possibilité d'apporter des modifications au Projet de résolution concernant la Constitution du Canada (24 novembre 1980). Click [HERE](#).)

-----o0o-----

**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<sup>5</sup>**

(f) not to be tried or punished more than once for an offence of which the person has, in Canada, been finally convicted or acquitted.

---

<sup>4</sup> [Memo](#) from this day is the same wording.

<sup>5</sup> Memos found on this day have the same wording. [\[Version 1\]](#) [\[Version 2\]](#)

(Source: Annexes du Mémoire au Cabinet du Ministre de la Justice daté du 24 novembre 1980 concernant la possibilité d'apporter des modifications au Projet de résolution concernant la Constitution du Canada (24 novembre 1980). Click [HERE.](#))

-----o0o-----

**December 2, 1980: Memo from Senior Counsel (Public Law) to Deputy Minister re Charter of Rights and Right Against Self-Crimination:**

| Amend section 11 to include as (c) “not to be compelled to testify against oneself”.

(Source: Memo from Senior Counsel (Public Law) to Deputy Minister, Charter of Rights and Right Against Self-Crimination (2 December 1980). Click [HERE.](#))

-----o0o-----

**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:**

11. Anyone charged with an offence has the right
- (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 himself or herself in proceedings in respect of the charge;
  - (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (e) not to be denied reasonable bail without just cause;
  - (f) except in the case of an offence under military law, 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;
  - (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;

(Source: Memo from E.I. MacDonald, Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada (5 December 1980). Click [HERE.](#))

-----o0o-----

**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:**

11. Anyone charged with an offence has the right
- (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 charge;
  - (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (e) not to be denied reasonable bail without just cause;
  - (f) except in the case of an offence under military law, 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;
  - (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;

(Source: Memo from E.I. MacDonald, Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada (5 December 1980). Click [HERE](#).)

-----o0o-----

**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]:**

11. Anyone charged with an offence has the right
- (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 charge;
  - (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (e) not to be denied reasonable bail without just cause;

(f) except in the case of an offence under military law, 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;

(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;

(h) not to be tried or punished more than once for an offence of which the person has, in Canada, been finally convicted or acquitted; and

(i) 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.

(Source: 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] (12 December 1980). Click [HERE](#).)

-----o0o-----

**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]:**

11. Anyone charged with an offence has the right

(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 charge;

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

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

(f) except in the case of an offence under military law, 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;

(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;

(h) not to be tried or punished more than once for an offence of which the person has, in Canada, been finally convicted or acquitted; and

(i) 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.

(Source: Annexes to Memorandum to Cabinet from Minister of Justice Dated December 12, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2] (12 December 1980). Click [HERE](#).)

-----oOo-----

### December 12, 1980: Draft [No Title]

11. Anyone charged with an offence has the right

(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 charge;

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

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

(f) except in the case of an offence under military law, 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;

(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;

(h) not to be tried or punished more than once for an offence of which the person has, in Canada, been finally convicted or acquitted; and

(i) 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.

(Source: [Department of Justice?], [DRAFT], Constitution Act, 1980. Click [HERE](#).)

-----oOo-----

## December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada

11. Anyone charged with an offence has the right
- (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 charge;
  - (d) not to be denied reasonable bail except on grounds, and in accordance with procedures, established by law;
  - (e) not to be denied reasonable bail without just cause;
  - (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 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 under Canadian or international law;
  - (h) not to be tried or punished more than once for an offence of which the person has, in Canada, been finally convicted or acquitted; and
  - (i) 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.

(Source: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada (19 December 1980). Click [HERE](#).)

-----o0o-----

## January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:

11. Any person charged with an offence has the right
- (a) to be informed promptly of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;

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

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

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

(g) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence under Canadian or international law;

(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

(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.

(Source: Canada, *Briefing Book for Clause by Clause Consideration of the Resolution* (January 1981). Click [HERE.](#))

-----o0o-----

## January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien<sup>6</sup>

11. Any person charged with an offence has the right

(a) to be informed promptly of the specific offence;

(b) to be tried within a reasonable time;

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

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

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

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

---

<sup>6</sup> See also [January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution.](#)

- (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;
- (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
- (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.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 36 (12 January 1981). Click [HERE](#).)

-----o0o-----

### **February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:**

- 11 Any person charged with an offence has the right
  - (a) to be informed without unreasonable delay of the specific offence;
  - (b) to be tried within a reasonable time;
  - (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
  - (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
  - (e) not to be denied reasonable bail without just cause;
  - (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
  - (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
  - (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
  - (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 57 (13 February 1981). Click [HERE](#).)

-----o0o-----

**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:**

11. Anyone charged with an offence has the right
  - (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 without just cause;
  - (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 under Canadian or international law;
  - (h) if finally convicted or acquitted of the offence in Canada, not to be tried or punished for the offence more than once; and
  - (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.

(Source: Canada, Department of Justice, *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* (1981). Click [HERE](#).)

-----o0o-----

**French:**

**July 4, 1980: Comité Permanent des Ministres sur la Constitution, Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail**

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 :

[...]

(e) le droit d'une personne accusée d'une infraction

(i) de connaitre les accusations qui pèsent contre elle,

(ii) d'être jugé dans un délai raisonnable,

(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;

(iv) de bénéficier d'une liberté assortie d'un cautionnement raisonnable, et de ne pas en être privée sans raison valable; et

(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;

(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;

(g) le droit de bénéficier de la peine la moins sèvre, 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,

(h) le droit de n'être soumis à aucun traitement ou châtiment cruels et inusités;

(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,

(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.

[...]

(2) Toute personne adroit lune audition juste et impartiale, conforme aux principes fondamentaux de la justice, pour la détermination de ses droits et obligations.

(Source: Comité Permanent des Ministres sur la Constitution, *Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail*, Doc: 830-81/027 (Montréal: 8-11 juillet 1980). Click [HERE.](#))

-----o0o-----

**September 3, 1980: Conference Fédérale-Provinciale des Premiers Ministres, Document de Travail, Charte Canadienne des Droits et Libertés**

10. Toute personne inculpée d'une infraction a le droit
- a) d'être informée sans délai de l'infraction précise qu'on lui reproche;
  - b) d'être jugée dans un délai raisonnable;
  - 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;
  - d) de ne pas en être privée sans raison valable d'une mise en liberté assortie d'un cautionnement raisonnable;
  - 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;
  - f) de n'être poursuivie ou punie qu'une seule fois pour une infraction dont elle a déjà été définitivement acquittée ou déclarée coupable;
  - 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.

(Source: Conference Fédérale-Provinciale des Premiers Ministres, *Document de Travail, Charte Canadienne des Droits et Libertés* (3 septembre 1980). Click [HERE](#).)

-----o0o-----

**September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada**

11. Tout inculpé a droit :
- a) d'être informé sans délai de l'infraction précise qu'on lui reproche;
  - b) d'être jugé dans un délai raisonnable;
  - 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;
  - d) de ne pas être privé sans raison valable d'une mise en liberté assortie d'un cautionnement raisonnable;
  - 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;

f) de n'être poursuivi ou puni qu'une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;

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.

(Source: Canada, Parliament, DRAFT, "Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada" (24 September 1980). Click [HERE.](#))

-----o0o-----

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

11. Tout inculpé a le droit :

a) d'être informé dans le meilleurs délais de l'infraction précise qu'on lui reproche;

b) d'être jugé dans un délai raisonnable;

c) 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;

d) de ne pas être privé sans motif valable d'une mise en liberté assortie d'un cautionnement raisonnable;

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;

f) de n'être poursuivi ou puni qu'une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;

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.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 1 (2 October 1980). Click [HERE.](#))

-----o0o-----

### **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]**

11. Tout inculpé a le droit :

- a) d'être informé dans le meilleurs délais de l'infraction précise qu'on lui reproche;
- b) d'être jugé dans un délai raisonnable;
- c) 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;
- d) de ne pas être privé d'une mise en liberté assortie d'un cautionnement raisonnable, sauf pour les motifs fondés sur la loi et dans les conditions que celle-ci prévoit;
- 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;
- f) de n'être poursuivi ou puni qu'une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;
- 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.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 2 with Handwritten Notes (2 October 1980). Click [HERE](#).)

-----oOo-----

### **October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada**

11. Tout inculpe a le droit :

- a) d'être informé dans le meilleurs délais de l'infraction précise qu'on lui reproche;
- b) d'être jugé dans un délai raisonnable;
- c) 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;
- d) 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;
- 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;
- f) de n'être poursuivi ou puni qu'une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;

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.

(Source: Canada, Parliament, "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" in *Sessional Papers* (1980). Click [HERE](#).)

-----o0o-----

### **November 21, 1980: Appendices: Some French Text and Corrections to Follow Draft**

11. Tout inculpe a le droit :

- a) d'être informé dans le meilleurs délais de l'infraction précise qu'on lui reproche;
- b) d'être jugé dans un délai raisonnable;
- c) 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;
- d) de ne pas être privé sans motif valable d'une mise en liberté assortie d'un cautionnement raisonnable;
- 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;
- f) de n'être poursuivi ou puni qu'une fois pour une infraction dont il a déjà été définitivement acquitté ou déclaré coupable;
- 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.

(Source: [Department of Justice?], Appendices: Some French Text and Corrections to Follow Draft (21 November 1980). Click [HERE](#).)

-----o0o-----

### **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<sup>7</sup>**

---

<sup>7</sup> [Memo](#) from this day is the same wording.

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 prévues par le droit interne ou le droit international;

[...]

f) de n'être poursuivi ou puni qu'une fois pour infraction dont il a déjà été, au Canada, définitivement acquitté ou déclaré coupable;

[...]

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~~<sup>[cinq]</sup> ans ou une peine plus grave

(Source: Annexes du Mémoire au Cabinet du Ministre de la Justice daté du 24 novembre 1980 concernant la possibilité d'apporter des modifications au Projet de résolution concernant la Constitution du Canada (24 novembre 1980). Click [HERE](#).)

-----o0o-----

### **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<sup>8</sup>**

e) 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;

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

-----o0o-----

### **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:**

(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 prévues par le droit canadien ou le droit international;

---

<sup>8</sup> Memos found on this day have the same wording. [\[Version 1\]](#) [\[Version 2\]](#)

(Source: Memo from E.I. MacDonald, Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada (5 December 1980). Click [HERE.](#))

-----o0o-----

**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:**

| c) de ne pas être contraint de témoigner contre lui-même dans toute procédure concernant son inculpation;

(Source: Memo from E.I. MacDonald, Addendum to Ministers dated November 25, 1980 from the Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada (5 December 1980). Click [HERE.](#))

-----o0o-----

**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]**

| c) de ne pas être contraint de témoigner contre lui-même dans toute procédure concernant son inculpation;

(Source: 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] (12 December 1980). Click [HERE.](#))

-----o0o-----

**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]:**

| c) de ne pas être contraint de témoigner contre lui-même dans toute procédure concernant son inculpation;

(Source: Annexes to Memorandum to Cabinet from Minister of Justice Dated December 12, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2] (12 December 1980). Click [HERE.](#))

-----o0o-----

## December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire

11. Tout inculpé a le droit:
- a) d'être informé dans les meilleurs délais de l'infraction précise qu'on lui reproche;
  - b) d'être jugé dans un délai raisonnable;
  - c) de ne pas être contraint de témoigner contre lui-même dans toute 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) de ne pas être privé sans motif valable d'une mise en liberté assortie d'un cautionnement raisonnable;
  - f) sauf s'il s'agit d'une infraction relevant de la justice militaire, de bénéficier d'un procès avec jury lorsque la peine maximale prévue pour l'infraction dont il est accusé est un emprisonnement de cinq ans ou une peine plus grave;
  - g) de ne pas être déclaré coupable en raison d'une action ou d'une omission qui, au moment où elle est survenue, ne constituait pas une infraction prévues par le droit interne ou le droit international;
  - h) de n'être poursuivi ou puni qu'une fois pour une infraction dont il a déjà été, au Canada, définitivement acquitté ou déclaré coupable;
  - 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

(Source: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire (30 décembre 1980). Click [HERE](#).)

-----oOo-----

## January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:

11. Tout inculpé a le droit:
- a) d'être informé dans les plus brefs délais de l'infraction précise qu'on lui reproche;

- b) d'être jugé dans un délai raisonnable;
- c) de ne pas être contraint de témoigner contre lui-même dans toute poursuite intentée contre lui pour l'infraction qu'on lui reproche;
- d) d'être présumé innocent tant qu'il n'est pas déclaré coupable, conformément à la loi, par un tribunal indépendant et impartial à l'issue d'un procès public et équitable;
- e) de ne pas être privé sans juste cause d'une mise en liberté assortie d'un cautionnement raisonnable;
- f) sauf s'il s'agit d'une infraction relevant de la justice militaire, de bénéficier d'un procès avec jury lorsque la peine maximale prévue pour l'infraction dont il est accusé est un emprisonnement de cinq ans ou une peine plus grave;
- g) de ne pas être déclaré coupable en raison d'une action ou d'une omission qui, au moment où elle est survenue, ne constituait pas une infraction prévues par le droit interne ou le droit international;
- 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;
- 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.

(Source: Canada, *Briefing Book for Clause by Clause Consideration of the Resolution* (January 1981). Click [HERE](#).)

-----o0o-----

### **February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:**

11 Tout inculpé a le droit :

- a) d'être informé sans délai anormal de l'infraction précise qu'on lui reproche;
- b) d'être jugé dans un délai raisonnable;
- c) de ne pas être contraint de témoigner contre lui-même dans toute poursuite intentée contre lui pour l'infraction qu'on lui reproche;
- d) d'être présumé innocent tant qu'il n'est pas déclaré coupable, conformément à la loi, par un tribunal indépendant et impartial à l'issue d'un procès public et équitable;

- e) de ne pas être privé sans juste cause d'une mise en liberté assortie d'un cautionnement raisonnable;
- f) sauf s'il s'agit d'une infraction relevant de la justice militaire, de bénéficier d'un procès avec jury lorsque la peine maximale prévue pour l'infraction dont il est accusé est un emprisonnement de cinq ans ou une peine plus grave;
- g) de ne pas être déclaré coupable en raison d'une action ou d'une omission qui, au moment où elle est survenue, ne constituait pas une infraction d'après le droit interne du Canada ou le droit international et n'avait pas de caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations;
- h) d'une part de ne pas être jugé de nouveau pour une infraction dont il a été définitivement acquitté, d'autre part de ne pas être jugé ni puni de nouveau pour une infraction dont il a été définitivement trouvé coupable et puni;
- i) de bénéficier de la peine la moins sévère, lorsque la peine qui sanctionne l'infraction dont il est déclaré coupable est modifiée entre le moment de la perpétration de l'infraction et celui de la sentence.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 57 (13 February 1981).  
Click [HERE](#).)

-----o0o-----

**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:**

11 Tout inculpé a le droit :

- a) d'être informé sans délai anormal de l'infraction précise qu'on lui reproche;
- b) d'être jugé dans un délai raisonnable;
- c) de ne pas être contraint de témoigner contre lui-même dans toute poursuite intentée contre lui pour l'infraction qu'on lui reproche;
- d) d'être présumé innocent tant qu'il n'est pas déclaré coupable, conformément à la loi, par un tribunal indépendant et impartial à l'issue d'un procès public et équitable;
- e) de ne pas être privé sans juste cause d'une mise en liberté assortie d'un cautionnement raisonnable;

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

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

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

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

(Source: Canada, Department of Justice, *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* (1981). Click [HERE](#).)

-----oOo-----

## Statutes and International Agreements

### June 20, 1978: Bill C-60: An Act to amend the Constitution of Canada

—the right to a fair hearing, in accordance with the principles of fundamental justice, for the determination of the individual’s rights or obligations;

(**Source:** Bill C-60, *An Act to amend the Constitution of Canada with respect to matters coming within the legislative authority of the Parliament of Canada, and to approve and authorize the taking of measures necessary for the amendment of the Constitution with respect to certain other matters*, 3rd Sess, 30th Parl, SC, 1978 (June 20, 1978). Click [HERE](#))

-----o0o-----