

External Affairs Supplementary Paper

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Amending the Constitution

Statement by Mr. E.D. Fulton, Minister of Justice and Attorney General of Canada, on the Formula for Transferring to Canada the Power to Amend the Constitution as Reported by the Conference of Attorneys General Under the Chairmanship of the Minister of Justice of Canada, December 1, 1961.

Mr. Fulton announced on December 1, 1961, that he had transmitted to the attorneys general of all the provinces the official text of a formula worked out during the previous 15 months by the Conference of Attorneys General of the Dominion and the Provinces to ensure that all future amendments to the Constitution would be made in Canada. The formula itself took the shape of an amendment to the British North America Act. The sessions of the Conference during which the formula had been worked out had been held on the following dates: October 6 and 7, 1960; November 2 and 3, 1960; January 12 and 13, 1961; September 11 and 12.

The text of this amendment, which is appended in English and French, received the approval of representatives from each provincial delegation to the Conference and from the federal delegation as a satisfactory draft of the formula arrived at by the Conference.

Mr. Fulton emphasized the fact that, at the final session, all attorneys general had agreed to report the draft, when received, to their respective governments. The great majority has also indicated their approval of the formula on which the draft was based, as the consensus of the Conference and an acceptable basis for legislation.

It is now the responsibility of each provincial government to consider and decide whether or not it finds the formula reported by the Conference acceptable for the purposes of enactment as an amendment to the B.N.A. Act. It is understood that some, if not all, provinces wish to place the proposal before their legislatures for consideration before final action is taken.

The final step would be for the Government of Canada to present the formula to Parliament in a resolution asking for the adoption of the necessary Address to the Queen. If Parliament approved, the Address would be transmitted to Her Majesty, requesting that she cause the proposed formula to be laid before the Parliament of the United Kingdom for enactment as an amendment to the British North America Act. This would be the final amendment to the Act made in the United Kingdom, since by its means all further power of amendment would be transferred to Canada.