

Constitution Amendment, 1987

"61. A reference to the *Constitution Act 1982*, or a reference to the *Constitution Acts 1867 to 1982*, shall be deemed to include a reference to any amendments thereto."

General

16. Nothing in section 2 of the *Constitution Act, 1867* affects section 25 or 27 of the *Canadian Charter of Rights and Freedoms*, section 35 of the *Constitution Act, 1982* or class 24 of section 91 of the *Constitution Act, 1867*.

CITATION

17. This amendment may be cited as the *Constitution Amendment, 1987*.

and on the amendment of Mr. Turner (Vancouver Quadra):

October 1, 1987—That the motion be amended

(a) in paragraph 1 of the Schedule by deleting subsection 2.(1) and substituting the following therefor:

"2.(1) The Constitution of Canada shall be interpreted in a manner consistent with

(a) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada;

(b) the recognition that Quebec constitutes within Canada a distinct society;

(c) the recognition that aboriginal peoples constitute a distinctive and fundamental characteristic of Canada;

(d) the recognition of the multicultural nature of Canadian society, and in particular respect for the many origins, creeds and cultures as well as the differing regional identities that helped shape Canadian society; and

(e) the recognition of the advantages of developing the Canadian economic union."

(b) in paragraph 1 of the Schedule by deleting subsection 2.(2) and substituting the following therefor:

"2(a) The role of the Parliament of Canada to preserve and promote, and the role of the provincial legislatures to preserve and, subject to subparagraph (2)(b) to promote, the fundamental characteristic of Canada referred to in paragraph 1(a) is affirmed.

(b) The role of a province in relation to promotion applies from the time it is adopted by a resolution of the legislative assembly of that province."

(c) in paragraph 2 of the Schedule by deleting section 25 and substituting the following therefor:

"25. Where a vacancy occurs in the Senate, and until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 42 of the *Constitution Act, 1982*, the government of Canada shall, within six months after the vacancy occurs, call an election in the province or territory to which the vacancy relates for the purpose of filling that vacancy, and, notwithstanding the provision of section 29 of the *Constitution Act, 1867*, for a term of nine years."

(d) in paragraph 6 of the Schedule by deleting subsections 101C.(1) and (2) and substituting the following therefor:

"101C.(1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province and the elected government of each territory may, in relation to that vacancy, submit to the Minister of Justice of Canada the names of any of the persons who have been admitted to the bar of that province or territory and are qualified under section 101B. for appointment to that court.

(2) Subject to subsection (5), where an appointment is made to the Supreme Court of Canada, the Governor General in Council shall, except where the Chief Justice is appointed from among members of the Court, appoint a person whose name has been submitted under subsection (1) and who is acceptable to the Queen's Privy Council for Canada."

(e) in paragraph 6 of the Schedule by adding immediately after subsection 101C.(4) the following:

"(5) Where an appointment is made in accordance with subsection (2) and, if within a period of three months, no name which has been submitted under subsection (1) is acceptable to the Queen's Privy Council for Canada, the Chief Justice may make an interim one-year appointment from among justices of the Federal Court of Canada or provincial Superior Courts."

(f) in paragraph 7 of the Schedule by deleting subsection 106A.(1) and substituting the following therefor:

"106A.(1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a national shared-cost program that is established by the Parliament of Canada after the coming into force of this section, in an area of exclusive provincial jurisdiction, if the province carries on a compatible program which meets minimum national standards."

(g) by deleting paragraphs 9, 10, 11 and 12 of the Schedule and substituting the following therefor:

"9. Sections 40 to 42 of the *Constitution Act, 1982* are repealed and the following substituted therefor:

40. Where an amendment is made under subsection 38(1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

(a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(b) the right of a province of a number of members in the House of Commons not less than the number of Senators by which the province was entitled to be represented on April 17, 1982;

(c) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

(d) subject to section 43, the use of the English or the French language;

(e) the Supreme Court of Canada; and

(f) an amendment to this Part.

42.(1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 38(1):

(a) the powers of the Senate and the method of selecting Senators; and

(b) the number of members by which a province or territory is entitled to be represented in the Senate and the residence qualifications of Senators.

(2) Subsections 38(2) to (4) do not apply in respect of amendments in relation to matters referred to in subsection (1).

42A. Notwithstanding subsection 42(1) of the *Constitution Act, 1982*, the establishment of new provinces and the extension of existing provinces into territories shall be a matter exclusively for the Governor General in Council and the elected government of the territory affected."

(h) in paragraph 13 of the Schedule by deleting subsection 50.(2) and substituting the following therefor:

"(2) The conferences convened under subsection (1) shall have included on their agenda the following matters:

(a) the aboriginal and treaty rights of the aboriginal peoples of Canada, including self-government;

(b) Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators, representation in the Senate.

(c) roles and responsibilities in relation to fisheries at the first meeting only;

(d) such other matters as are agreed upon."

(i) by deleting paragraph 16 of the Schedule and substituting the following therefor:

"16. Nothing in the *Constitution Amendment, 1987* derogates from any of the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms or affects Part II of the *Constitution Act, 1982*".—The Leader of the Opposition.

and on the amendment of Mr. Broadbent:

October 1, 1987—That the motion be amended

(a) by adding in paragraph 2 subsection 25(1) the words "and the elected government of each territory" immediately after the word "province";

(b) by adding in paragraph 2 subsection 25(2) the words "or the elected government of a territory" immediately after the word "province";

(c) by adding in paragraph 6 subsection 101C.(1) the words "or the elected government of a territory" immediately after the word "province";

(d) by adding in paragraph 6 subsection 101C.(4) the words "or the elected government of a territory" immediately after the word "province";

(e) by deleting in paragraph 9, section 41 paragraph (i);

(f) by adding to paragraph 13 subsection 50(2) the following new paragraph: