

individuals — such as family allowances — or to provinces: hospital insurance and medicare, higher education, public assistance to the needy, and equalization grants to bring the standards of health, education and general welfare in the poorer provinces up to an average national standard); the Post Office; the census and statistics; defence; beacons, buoys, lighthouses and Sable Island;\* navigation and shipping; quarantine; marine hospitals; the fisheries; interprovincial and international ferries, shipping, railways, telegraphs, and other such international or interprovincial “works and undertakings” — which the courts have interpreted to cover pipelines and telephones; money and banking; interest; bills of exchange and promissory notes; bankruptcy; weights and measures; patents; copyrights; Indians and Indian lands (the courts have interpreted this to cover Inuit as well); naturalization and aliens; the criminal law and procedure in criminal cases; the general law of marriage and divorce; local works declared by Parliament to be “for the general advantage of Canada or of two or more of the provinces” (this has been used many times, notably to bring atomic energy and the grain trade under exclusive national jurisdiction). A 1940 constitutional amendment gave Parliament exclusive power over unemployment insurance and a specific section of the act of 1867 gives it power to establish courts “for the better administration of the laws of Canada.” This has enabled Parliament to set up the Supreme Court of Canada and the Federal Court.

As already noted, the national Parliament can amend the Constitution in relation to the executive government of Canada and the Senate and the House of Commons, except that it cannot touch the office of the Queen or the governor general, nor those aspects of the Senate and the Supreme Court of Canada entrenched by the amending formulas.

Though Parliament cannot transfer any of its powers to a provincial legislature, nor a provincial legislature any of its powers to Parliament, Parliament can delegate the administration of a federal act to provincial agencies (as it has done with the regulation of interprovincial and international highway traffic); and a provincial legislature can delegate the administration of a provincial act to a federal agency. This “administrative delegation” is an important aspect of the flexibility of the Constitution.

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\* The Fathers of Confederation evidently felt that Sable Island, “the graveyard of the Atlantic,” was such a menace to shipping that it must be under the absolute control of the national government, just like lighthouses. So they placed it under the exclusive legislative jurisdiction of the national Parliament (by section 91, head 9, of the act of 1867). They also (by the third schedule of that act) transferred the actual ownership from the Province of Nova Scotia to the Dominion of Canada, just as they did with the Nova Scotia lighthouses.