

residents the right to "move to and take up residence in any province" and to "pursue the gaining of a livelihood" there. A subsection permits a province with above average levels of unemployment to pass laws giving preference to disadvantaged persons already there.

Sections seven through fourteen guarantee life, liberty, security of person, security against unreasonable search and seizure and security against arbitrary detention or imprisonment. They also specify the rights of persons who are arrested or detained. Most of these are traditional rights but a few have new elements. There had been no specific law prohibiting arbitrary searches. Customs officers now may not hold someone on the basis of his appearance alone, and the courts now exercise tighter controls over warrants. Police must tell suspects "without delay" of their right to see a lawyer and of the specific nature of the charge against them. Canadians now have a specific right against self-incrimination; they may be asked to testify against presumed accomplices but they cannot be required to testify against themselves. Witnesses or defendants who do not speak the language of the court have a specific right to an interpreter.

The fifteenth section is basic. It provides equality "before and under the law" for everyone, whatever their "race, national or ethnic origin, colour, religion, sex, age or mental or physical disability." A subsection does, however, permit special affirmative action programs.

The sixteenth to the twenty-second are among the most vital sections. They deal with language rights—an old, real and particularly Canadian problem. The BNA Act provided for the use of both French and English in the federal courts and Parliament and in the courts and legislature of Quebec.

When Manitoba, which had a large French-speaking population, was admitted to the Confederation in 1870, the same provisions were applied.

In 1890, however, Manitoba passed a law which did away with French-language guarantees. In subsequent years the use of French was also restricted in other provinces, particularly in the field of education.

There was much resistance from French speakers, and in 1963 the Royal Commission on Bilingualism and Biculturalism was created. In 1969 Parliament, following its recommendations, passed the Official Languages Act, which provided for the use of French and English in all "institutions of the Parliament and government of Canada."

Since 1969, there has been a gradual expansion of French rights in areas of provincial jurisdiction.

In 1970 New Brunswick passed a law applying provisions similar to those of the federal Act to its own institutions; and in 1979 the Supreme Court of Canada ruled that the Manitoba law of 1890 was unconstitutional, and the original status of French was restored.

The Charter entrenches the above provisions

in the Constitution.

Section twenty-three entrenches the rights of linguistic minorities to education in their language. It provides that all citizens of Canada who received their primary education in Canada in either French or English have the right to have their children educated in the same language if it is the minority language of the province in which they reside.

The Quebec Official Language Act (Bill 101) passed in 1977 provided for such a right on the basis of reciprocal agreements with the other provinces. In November, all the other provinces agreed to this guarantee, and it is now entrenched and applies throughout Canada.

Section twenty-three also provides a guarantee of minority language education rights to the children of Canadian citizens "whose first language learned and still understood" is that of the linguistic minority of the province in which they reside, whether or not the parents had been able to receive their primary education in that language (which was often not possible during the period when rights to education in French outside Quebec were being restricted). This supplementary guarantee will apply in all provinces except Quebec, where it will only come into force if approved by the legislature.

The twenty-fourth section provides that those who feel their Charter rights to be infringed may take the offending government to court. An important subsection deals with the admissibility of evidence in criminal cases. In the United States improperly obtained evidence is always excluded, no matter how minor the infraction. Canada now provides a more flexible protection. A defence attorney must show that the admission of such evidence would "bring the administration of justice in disrepute." This means that evidence cannot be excluded if, for example, a police officer signed the wrong form or if an impatient prisoner insisted on confessing before he had seen his lawyer.

Section twenty-five assures that the rights of native peoples of Canada will not be diminished by the Charter. For example, the Charter provision that guarantees language education rights in French and English may not be interpreted to deprive the Indians of James Bay of their established right to educate their children in Cree.

Section twenty-six provides more general assurance: the Charter may not be used to deprive anyone of existing rights or freedoms. Section twenty-seven adds further that its interpretation must be "consistent with the preservation and enhancement of the multicultural heritage of Canadians." This has significance since Canada has always emphasized its cultural diversity. The United States in the nineteenth and early twentieth centuries considered itself a "melting pot" in which immigrants became culturally homogeneous. Canada pursued a different image, a "mosaic" in which distinct cultures—French, English, Ukrainian, German, Scottish, Irish and many others—remained distinctive but harmoni-