

*Constitution Amendment, 1987*

subsection (5), or has been selected by the Attorney General of Canada under subsection (5).

(4) Where after the lapse of ninety days from the day a vacancy arises in the Supreme Court of Canada, the Attorney General of Canada and the attorney general of a province have not reached agreement on a person to be appointed to fill the vacancy, the Attorney General of Canada may inform the attorney general of the appropriate province in writing that he proposes to convene a nominating council to recommend an appointment.

(5) Within thirty days of the day when the Attorney General of Canada has written the attorney general of the province that he proposes to convene a nominating council, the attorney general of the province may inform the Attorney General of Canada in writing that he selects either of the following types of nominating councils:

(a) a nominating council consisting of the following members: the Attorney General of Canada or his nominee and the attorneys general of the provinces or their nominees;

(b) a nominating council consisting of the following members: the Attorney General of Canada or his nominee, the attorney general of the appropriate province or his nominee and a Chairman to be selected by the two attorneys general, and if within six months from the expiration of the thirty days they cannot agree on a Chairman, then the chief justice of the appropriate province or if he is unable to act, the next senior judge of this court, shall name a Chairman;

and if the attorney general of the province fails to make a selection within the thirty days above referred to, the Attorney General of Canada may select the person to be appointed.

(6) When a nominating council has been created, the Attorney General of Canada shall submit the names of not less than three qualified persons to it about whom he has sought the agreement of the attorney general of the appropriate province to the appointment, and the nominating council shall recommend therefrom a person for appointment to the Supreme Court of Canada; a majority of the members of a council constitutes a quorum, and a recommendation of a majority of the members at a meeting constitutes a recommendation of the council.

(7) For the purpose of this section "appropriate province" means, in the case of a person being considered for appointment to the Supreme Court of Canada in compliance with section 101B, the Province of Quebec, and in the case of any other person being so considered, the province to the Bar of which such person was admitted, and if a person was admitted to the Bar of more than one province, the province with the Bar of which the person has, in the opinion of the Attorney General of Canada, the closest connection.

(8) This section does not apply to the appointment of the Chief Justice of Canada when such appointment is made from among the judges of the Supreme Court of Canada."—

And:

That the motion be amended by deleting paragraph 7 of the Schedule.—

And:

That the motion be amended in paragraph 8 of the Schedule by deleting section 148 and by renumbering the following sections accordingly.—

And:

That the motion be amended by deleting paragraphs 9, 10, 11 and 12 of the Schedule and substituting the following therefor:

"9. Sections 38 to 47 of the *Constitution Act, 1982* are repealed and the following substituted therefor:

"38. Amendments to the Constitution of Canada may from time to time be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the legislative assemblies of at least a majority of the provinces that includes

(a) every province that at any time before the issue of such proclamation had, according to any previous general census, a population of at least twenty-five percent of the population of Canada:

(b) at least two of the Atlantic Provinces;

(c) at least two of the Western Provinces that have, according to the then latest general census, combined populations of at least fifty per cent of the population of all the Western Provinces.

39. Amendments to the Constitution of Canada in relation to any provision that applies to one or more, but not all, of the provinces may from time to time be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which an amendment applies.

40. An amendment may be made by proclamation under section 38 without a resolution of the Senate authorizing the issue of the proclamation if within ninety days of the passage of a resolution by the House of Commons authorizing its issue the Senate has not passed such a resolution and at any time after the expiration of the ninety days the House of Commons again passes the resolution, but any period when Parliament is prorogued or dissolved shall not be counted in computing the ninety days.

41. The following rules apply to the procedures for amendment described in sections 38 and 39:

(a) either of these procedures may be initiated by the Senate or the House of Commons or the legislative assembly of a province;

(b) a resolution made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

42. The Parliament of Canada may exclusively make laws from time to time amending the Constitution of Canada, in relation to the executive Government of Canada and the Senate and House of Commons.

43. Subject to section 44, a legislature may exclusively make laws in relation to the amendment from time to time of the Constitution of the province.

44. Notwithstanding sections 42 and 43, the following matters may be amended only in accordance with the procedure in section 38:

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

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

(c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(d) the right of a province to 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;

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

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

(g) the Supreme Court of Canada;

(h) the extension of existing provinces into the territories;

(i) notwithstanding any other law or practice, the establishment of new provinces; and

(j) an amendment to this Part.

45. The procedure prescribed in section 38 may not be used to make an amendment when there is another provision for making such amendment in the Constitution of Canada, but that procedure may nonetheless be used to amend any provision for amending the Constitution, including this section, or in making a general consolidation and revision of the Constitution.

46. In this Part, "Atlantic Provinces" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, and "Western Provinces" means the Provinces of Manitoba, British Columbia, Saskatchewan and Alberta."

And:

That the motion be amended by deleting paragraph 13 of the Schedule and substituting the following therefor:

"13. Part VI of the *Constitution Act, 1982* is repealed and the following substituted therefor: