

Victoria Charter

The amendment procedure of the Charter is more flexible than the ill-fated Fulton-Favreau Formula. It does not contain provisions requiring unanimity for any amendment proposal. Under it, the Constitution as it affects all of Canada could be altered through the agreement of the Federal Parliament and the legislatures of six of the ten provinces, provided that among the six were Ontario and Quebec (each of which has more than 25 per cent of the Canadian population), two of the four provinces in the Atlantic region, and two of the four west of Ontario, provided they contained at least 50 per cent of the population in that region. If any other province attained a population 25 per cent of the whole, it also would acquire the same entrenched position as Ontario and Quebec. What this amounted to was a kind of regional assent, with the large provinces having a veto and the small ones unable alone to paralyze the mechanism. Amendments that did not concern all the provinces would require the consent only of the Federal Government and the provinces concerned. Amendments to the Constitution would be proclaimed by the Governor General when authorized by resolutions of the Senate and the House of Commons and the legislatures of a majority of the provinces according to the special formula.

Article 51 of the Charter introduced a new element by restricting the powers of the Senate where amendment was concerned. If the Senate had not given its authorization within 90 days after approval of the amendment by the House of Commons, the amendment would be made without Senate authorization, provided it had been passed a second time by the Lower House. The amendment could be proposed by the Senate, the House of Commons or a provincial legislative assembly.

Article 55 stipulated that, notwithstanding certain exceptions to the procedure described above, the following matters could be amended only in accordance with that procedure: the office of the Queen, of the Governor General and of lieutenant-governor; requirements respecting yearly sessions of the Parliament of Canada and the legislatures of the provinces; the powers of the Senate, representation in the Senate and the residence qualifications of Senators; the right of a province to have at least as many representatives in the House of Commons as in the Senate; proportionate representation of the provinces in the House of Commons; and the requirements of the Charter respecting the use of the English and French languages.

At Victoria, all the governments agreed to accept in the Constitution certain fundamental political freedoms: freedom of thought,