

**CONSOLIDATED TEXT**

**MEECH LAKE ACCORD AND NEW BRUNSWICK RESOLUTION**

**SCHEDULE**

**CONSTITUTION AMENDMENT, 1987**

**Constitution Act, 1867**

1. The *Constitution Act, 1867* is amended by adding thereto, immediately after section 1 thereof, the following section:

Interpretation

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; and

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

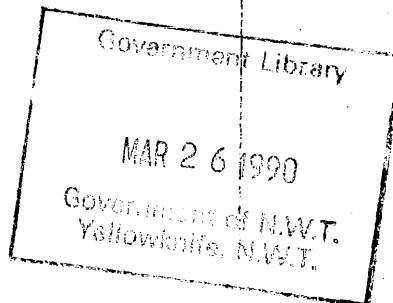
~~(c) the recognition that within New Brunswick, the English linguistic community and the French linguistic community have equality of status and equal rights and privileges.~~

Role of Parliament and legislatures

(2) The role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristics of Canada referred to in paragraph (1)(a) is affirmed.

Role of Parliament and Government of Canada

(2.1) The role of the Parliament and Government of Canada to promote the fundamental characteristic of Canada referred to in paragraph (1)(a) is affirmed.



**Role of legislature and  
Government of Quebec**

(3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(b) is affirmed.

**Role of legislature and  
Government of New  
Brunswick**

**(3.1) The role of the legislature and Government of New Brunswick to preserve and promote the equality of status and equal rights and privileges of the two linguistic communities referred to in paragraph (1)(c) is affirmed.**

**Rights of legislatures and  
governments preserved**

(4) Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language."

2. The said Act is further amended by adding thereto, immediately after section 24 thereof, the following section:

**Names to be submitted**

**"25. (1) Where a vacancy occurs in the Senate, the government of the province or territory to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.**

**Choice of Senators from  
names submitted**

**(2) Until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 41 of the *Constitution Act, 1982*, the person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted under subsection (1) by the government of the province or territory to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada."**



3. The said Act is further amended by adding thereto, immediately after section 95 thereof, the following heading and sections:

*Agreements on Immigration and Aliens*

**Commitment to negotiate**

95A. The Government of Canada shall, at the request of the government of any province, negotiate with the government of that province for the purpose of concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province.

**Agreements**

95B. (1) Any agreement concluded between Canada and a province in relation to immigration or the temporary admission of aliens into that province has the force of law from the time it is declared to do so in accordance with subsection 95C(1) and shall from that time have effect notwithstanding class 25 of section 91 or section 95.

**Limitation**

(2) An agreement that has the force of law under subsection (1) shall have effect only so long and so far as it is not repugnant to any provision of an Act of the Parliament of Canada that sets national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

**Application of Charter**

(3) The *Canadian Charter of Rights and Freedoms* applies in respect of any agreement that has the force of law under subsection (1) and in respect of anything done by the Parliament or Government of Canada, or the legislature or government of a province, pursuant to any such agreement.

**Proclamation relating to agreements**

**95C. (1)** A declaration that an agreement referred to in subsection 95B(1) has the force of law may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement.

**Amendment of agreements**

**(2)** An amendment to an agreement referred to in subsection 95B(1) may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized

**(a)** by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement; or

**(b)** in such other manner as is set out in the agreement.

**Application of sections 46 to 48 of Constitution Act, 1982**

**95D.** Sections 46 to 48 of the *Constitution Act, 1982* apply, with such modifications as the circumstances require, in respect of any declaration made pursuant to subsection 95C(1), any amendment to an agreement made pursuant to subsection 95C(2) or any amendment made pursuant to section 95E.

**Amendments to sections 95A to 95D or this section**

**95E.** An amendment to sections 95A to 95D or this section may be made in accordance with the procedure set out in subsection 38(1) of the *Constitution Act, 1982*, but only if the amendment is authorized by resolutions of the legislative assemblies of all the provinces that are, at the time of the amendment, parties to an agreement that has the force of law under subsection 95B(1).<sup>a</sup>

4. The said Act is further amended by adding thereto, immediately preceding section 96 thereof, the following heading:

***"General"***

5. The said Act is further amended by adding thereto, immediately preceding section 101 thereof, the following heading:

***"Courts Established by the Parliament of Canada"***

6. The said Act is further amended by adding thereto, immediately after section 101 thereof, the following heading and sections:

***"Supreme Court of Canada"***

Supreme Court  
continued

101A. (1) The court existing under the name of the Supreme Court of Canada is hereby continued as the general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a superior court of record.

Constitution of court

(2) The Supreme Court of Canada shall consist of a chief justice to be called the Chief Justice of Canada and eight other judges, who shall be appointed by the Governor General in Council by letters patent under the Great Seal.

Who may be appointed  
judges

101B. (1) Any person may be appointed a judge of the Supreme Court of Canada who, after having been admitted to the bar of any province or territory, has, for a total of at least ten years, been a judge of any court in Canada or a member of the bar of any province or territory.

Three judges from  
Quebec

(2) At least three judges of the Supreme Court of Canada shall be appointed from among persons who, after having been admitted to the bar of Quebec, have, for a total of at least ten years, been judges of any court of Quebec or of any court established by the Parliament of Canada, or members of the bar of Quebec.

Names may be submitted

101C. (1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province or 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.

Appointment from  
names submitted

(2) 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.

Appointment from  
Quebec

(3) Where an appointment is made in accordance with subsection (2) of any of the three judges necessary to meet the requirement set out in subsection 101B(2), the Governor General in Council shall appoint a person whose name has been submitted by the Government of Quebec.

Appointment from other  
provinces

(4) Where an appointment is made in accordance with subsection (2) otherwise than as required under subsection (3), the Governor General in Council shall appoint a person whose name has been submitted by the government of a province, or territory, other than Quebec.

Tenure, salaries, etc., of  
judges

101D. Sections 99 and 100 apply in respect of the judges of the Supreme Court of Canada.

Relationship to section  
101

101E. (1) Sections 101A to 101D shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws under section 101 except to the extent that such laws are inconsistent with those sections.

References to the  
Supreme Court of  
Canada

(2) For greater certainty, section 101A shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws relating to the reference of questions of law or fact, or any other matters, to the Supreme Court of Canada."

7. The said Act is further amended by adding thereto, immediately after section 106 thereof, the following section:

Shared-cost program

"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 Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives.

Legislative power not  
extended

(2) Nothing in this section extends the legislative powers of the Parliament of Canada or of the legislatures of the provinces."

8. The said Act is further amended by adding thereto the following heading and sections:

**XII - CONFERENCES ON THE ECONOMY AND OTHER MATTERS**

Conferences on the economy and other matters

148. A conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss the state of the Canadian economy and such other matters as may be appropriate.

**XIII - REFERENCES**

Reference includes amendments

149. A reference to this Act shall be deemed to include a reference to any amendments thereto."

**Constitution Act, 1982**

(.) Section 36 of the Constitution Act, 1982 is amended by adding thereto the following subsection:

Senate review

"(3) The Senate shall, in 1991 and every five years thereafter, carry out an assessment of the results achieved in relation to the commitments of Parliament, the legislatures, the government of Canada and the provincial governments set out in this section and a report of every such assessment shall be presented to the conference next convened under section 148 of the Constitution Act, 1867 after the assessment is completed."

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

Compensation

"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.



**Amendment by  
unanimous consent**

**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 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."**

( ) Section 43 of the said Act is renumbered as subsection 43(1) and is further amended by adding thereto the following subsection:

Amendment to New Brunswick Act

"(2) An amendment to the Act of the Legislature of New Brunswick entitled *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, chapter O-1.1 of the Acts of New Brunswick, 1981, may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the Legislative Assembly of New Brunswick."

( ) The said Act is further amended by adding thereto, immediately after section 43 thereof, the following section:

Amendment relative to new provinces in the territories

"43.1 Notwithstanding paragraph 41(i), an amendment to the Constitution of Canada in relation to the establishment of new provinces in the territories may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons."

10. Section 44 of the said Act is repealed and the following substituted therefor:

Amendments by Parliament

"44. Subject to section 41, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons."

11. Subsection 46(1) of the said Act is repealed and the following substituted therefor:

Initiation of amendment  
procedures

"46. (1) The procedures for amendment under sections 38, 41 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province.

Public hearings

46.1 No measure relating to an amendment to the Constitution of Canada may be adopted by the House of Commons or the legislative assembly of a province pursuant to section 38, 41, 43, 43.1 or 46 unless public hearings in relation thereto are first held by the House of Commons or legislative assembly, as the case may be."

12. Subsection 47(1) of the said Act is repealed and the following substituted therefor:

Amendments without  
Senate resolution

"47. (1) An amendment to the Constitution of Canada made by proclamation under section 38, 41 or 43 or 43.1 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution."

13. Part VI of the said Act is repealed and the following substituted therefor:

**\*PART VI**

**CONSTITUTIONAL CONFERENCES**

Constitutional conference

50. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988.

**Agenda**

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

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

(a.1) constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples;

(b) roles and responsibilities in relation to fisheries; and

(c) such other matters as are agreed upon.

**Exception**

(3) The matters referred to in paragraph (2)(b) do not include issues relating to jurisdiction and are not required to be included on the agenda of conferences convened under subsection (1) after the first such conference is convened.

**Participation of  
aboriginal peoples and  
the territories**

(4) The Prime Minister of Canada shall invite representatives of the aboriginal peoples of Canada, and elected representatives of the governments of the Yukon Territory and the Northwest Territories, to participate in the discussions on the matters referred to in paragraph (2)(a.1) at the conferences convened under subsection (1).

14. Subsection 52(2) of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) any other amendment to the Constitution of Canada."

15. Section 61 of the said Act is repealed and the following substituted therefor:

References

"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*

Multicultural heritage  
and aboriginal peoples

16. Nothing in section 2 of the *Constitution Act, 1867* affects section 25 or 27 or 28 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

Citation

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

**A GUIDE TO NEW BRUNSWICK'S COMPANION RESOLUTION**  
**TO THE 1987 CONSTITUTIONAL ACCORD**

Canadians have expressed concern over the text of the Meech Lake Constitutional Accord to which First Ministers agreed on June 2, 1987. A Select Committee of the Legislative Assembly of New Brunswick was established on May 18, 1988 and charged with receiving public input on the 1987 Accord. Public hearings began in January, 1989 and in October, 1989 the Committee presented its Report and recommendations to the House.

In an effort to address the many concerns heard during the public hearings in New Brunswick and elsewhere across Canada, New Brunswick's companion amendments (to the 1987 Accord) substantially reflect the recommendations of the New Brunswick Select Committee. This document provides a summary of these companion amendments.

New Brunswick's companion resolution is based on the premise that the 1987 Accord should be improved without detracting from its fundamental objectives. The resolution is the formal instrument setting out the additional amendments which New Brunswick considers are necessary in order for it to adopt the 1987 Accord.

**The Motion**

The first part of the document, (the paragraphs beginning with "Whereas") sets the stage for the amendments which are set out in the schedule which follows.

The first two recitals simply acknowledge the signing of the 1987 Accord and its importance to the ongoing process of constitutional renewal in Canada. The third recital refers to the concerns expressed by Canadians from across Canada that the 1987 Accord did not reflect a sufficiently broad and all encompassing vision of Canada.

The fourth recital indicates that the New Brunswick resolution will provide a means for addressing the rights of the aboriginal peoples of Canada.

The fifth recital confirms the interpretive nature of the 1987 Accord, that no new power was intended to be conferred by that Accord and that it was not designed to diminish Charter rights. The sixth recital notes that New Brunswick's amendments will provide a means for assessing the constitutional commitments made in relation to equalization and regional disparity.

The final recital acknowledges the urgent need for Senate reform.

#### The Schedule

The schedule to the resolution provides the text of the precise amendments proposed by New Brunswick.

#### Principles of Equality

The first clause of the 1987 Accord recognizes the historic reality that linguistic duality is a fundamental characteristic of Canada. It also recognizes Quebec's distinct identity within the Canadian community. This first clause, therefore, sets out guidelines for the interpretation of the Constitution. The first clause of New Brunswick's resolution adds another dimension to linguistic duality, namely that of the equality of the English and French linguistic communities in New Brunswick. This conforms with the recommendation of the Select Committee.

#### Preserve and Promote

The 1987 Accord simply affirms the role of Parliament and provincial legislatures to preserve the linguistic nature of Canada. Clause 1(2) of New Brunswick's resolution adds the obligation of Parliament and the Government of Canada to promote this fundamental reality throughout Canada. Further, in clause 1(3), New Brunswick's resolution expressly affirms the role of the Legislature and Government of New Brunswick to preserve and promote the equality of status and equal rights and privileges of the two official linguistic communities in New Brunswick.

### Gender Equality

In order to ensure that these interpretive provisions do not erode the Charter guarantee that the rights and freedoms are guaranteed equally to male and female persons, New Brunswick's resolution adds section 28 of the Charter to clause 16 of the Accord.

### Senate and Supreme Court of Canada Nominees

Next, and again in agreement with the recommendations of the Select Committee, clauses 2 and 3 of New Brunswick's resolution proposes that the provisions in the Accord respecting the procedure for summoning persons to the Senate and to the Supreme Court of Canada be extended to the Yukon Territory and the Northwest Territories.

### Regional Disparities and Equalization

In 1982, the Constitution was amended to enshrine the commitments of both levels of government to the reduction of regional disparities and to the principles of equalization. The Select Committee heard many presentations in relation to the provision in the 1987 Accord dealing with limitations on the federal spending power. Concern was expressed that the changes proposed in that Accord might affect national programs and in fact create greater regional disparity. The Committee also expressed concern that equalization was being eroded. Accordingly, while accepting the proposed limitation on the federal spending power, the Committee recommended that the provisions of section 36 of the Constitution Act, 1982 be strictly adhered to. Clause 4 of the New Brunswick resolution responds to this concern by proposing that beginning in 1991 (and every five years thereafter) the Senate carry out an assessment of the results of the commitments contained in section 36 and report to the First Ministers' Conferences on the Economy provided for in the 1987 Accord.

### New Brunswick Linguistic Communities

In 1982, New Brunswick undertook certain specific obligations and extended constitutional rights in relation to the two official languages. These



provisions, set out in sections 18 to 20 of the Charter can only be amended by Parliament and the Legislature of New Brunswick. Clause 5 of New Brunswick's resolution extends that bilateral amending procedure to An Act Recognising the Equality of the Two Official Linguistic Communities in New Brunswick ("Bill 98").

#### Territories Achieving Provincial Status

The Constitution presently provides that an amendment in relation to the establishment of new provinces can be accomplished by Parliament and the legislatures of two-thirds of the provinces with 50% of the population. The 1987 Accord proposes that such an amendment should require the unanimous consent of all legislatures. The majority of the presentations to the Select Committee found that the 1987 Accord was too restrictive in this respect. Clause 8 of the New Brunswick resolution proposes a return to the original procedure for creating new provinces out of the Yukon Territory and Northwest Territories.

#### Public Hearings

Canadians expressed considerable concern over the process by which the 1987 Accord was concluded. In response to this concern, clause 7 of the New Brunswick resolution requires public hearings by Parliament and legislatures prior to the adoption of any measure affecting an amendment to the Constitution.

#### Aboriginal Peoples of Canada

Clause 13 of the 1987 Accord provides for annual Constitutional Conferences convened by the Prime Minister with a specified agenda. Clause 9 of the New Brunswick resolution requires that the agenda include matters that directly affect the aboriginal peoples of Canada. Clause 9 also requires the Prime Minister of Canada to invite representatives of the aboriginal peoples as well as elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions of such matters.

#### Fisheries

The New Brunswick resolution proposes that the agenda item in relation to fisheries not include issues relating to jurisdiction and that this item

be dealt with only at the first Constitutional Conference provided for by the 1987 Accord.

Citation

The final clause of the resolution simply provides for the appropriate citation of the amendments contained in the resolution.