





**1983 Constitutional Accord
on
Aboriginal Rights**

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**1983 CONSTITUTIONAL
ACCORD ON ABORIGINAL
RIGHTS**


Whereas pursuant to section 37 of the Constitution Act, 1982, a constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces was held on March 15 and 16, 1983, to which representatives of the aboriginal peoples of Canada and elected representatives of the governments of the Yukon Territory and the Northwest Territories were invited;

And whereas it was agreed at that conference that certain amendments to the Constitution Act, 1982 would be sought in accordance with section 38 of that Act;

And whereas that conference had included in its agenda the following matters that directly affect the aboriginal peoples of Canada:

AGENDA

1. Charter of Rights of the Aboriginal Peoples (expanded Part II) including:
 - Preamble
 - Removal of "Existing", and expansion of Section 35 to include recognition of modern treaties, treaties signed outside Canada and before Confederation, and specific mention of "Aboriginal Title" including the rights of aboriginal peoples of Canada to a land and water base (including land base for the Metis)
 - Statement of the particular rights of aboriginal peoples
 - Statement of principles
 - Equality
 - Enforcement
 - Interpretation
2. Amending formula revisions, including:
 - Amendments on aboriginal matters not to be subject to provincial opting out (Section 42)
 - Consent clause,
3. Self-government
4. Repeal of Section 42(1)(e) and (f)
5. Amendments to Part III, including:
 - Equalization) Resourcing of
 - Cost-sharing) aboriginal governments
 - Service delivery)

6. Ongoing process, including further first ministers conferences and the entrenchment of necessary mechanisms to implement rights

And whereas that conference was unable to complete its full consideration of all the agenda items;

And whereas it was agreed at that conference that future conferences be held at which those agenda items and other constitutional matters that directly affect the aboriginal peoples of Canada will be discussed;

NOW THEREFORE the Government of Canada and the provincial governments hereby agree as follows:

1. A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces will be convened by the Prime Minister of Canada within one year after the completion of the constitutional conference held on March 15 and 16, 1983.
2. The conference convened under subsection (1) shall have included in its agenda those items that were not fully considered at the conference held on March 15 and 16, 1983, and the Prime Minister of Canada shall invite representatives of the aboriginal peoples of Canada to participate in the discussions on those items.
3. The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of the conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.
4. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, prior to December 31, 1983, a resolution in the form set out in the Schedule to authorize a proclamation to be issued by the Governor General under the Great Seal of Canada to amend the Constitution Act, 1982.

5. In preparation for the constitutional conferences contemplated by this Accord, meetings composed of ministers of the governments of Canada and the provinces, together with representatives of the aboriginal peoples of Canada and elected representatives of the governments of the Yukon Territory and the Northwest Territories, shall be convened at least annually by the government of Canada.
6. Nothing in this Accord is intended to preclude, or substitute for, any bilateral or other discussions or agreements between governments and the various aboriginal peoples and, in particular, having regard to the authority of Parliament under Class 24 of section 91 of the Constitution Act, 1867, and to the special relationship that has existed and continues to exist between the Parliament and government of Canada and the peoples referred to in that Class, this Accord is made without prejudice to any bilateral process that has been or may be established between the government of Canada and those peoples.
7. Nothing in this Accord shall be construed so as to affect the interpretation of the Constitution of Canada.



SCHEDULE

Motion for a Resolution to authorize His Excellency the Governor General to issue a proclamation respecting amendments to the Constitution of Canada

Whereas the Constitution Act, 1982 provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and resolutions of the legislative assemblies as provided for in section 38 thereof;

And Whereas the Constitution of Canada, reflecting the country and Canadian society, continues to develop and strengthen the rights and freedoms that it guarantees;

And Whereas, after a gradual transition of Canada from colonial status to the status of an independent and sovereign state, Canadians have, as of April 17, 1982, full authority to amend their Constitution in Canada;

And Whereas historically and equitably it is fitting that the early exercise of that full authority should relate to the rights and freedoms of the first inhabitants of Canada, the aboriginal peoples;

Now Therefore the [Senate] [House of Commons] [legislative assembly] resolves that His Excellency the Governor General be authorized to issue a proclamation under the Great Seal of Canada amending the Constitution of Canada as follows:

PROCLAMATION AMENDING THE CONSTITUTION OF CANADA

1. Paragraph 25(b) of the Constitution Act, 1982 is repealed and the following substituted therefor:

"(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired."

2. Section 35 of the Constitution Act, 1982 is amended by adding thereto the following subsections:

"(3) For greater certainty, in subsection

(1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired."

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons."

3. The said Act is further amended by adding thereto, immediately after section 35 thereof, the following section:

"35.1 The government of Canada and the provincial governments are committed to the principle that, before any

amendment is made to Class 24 of section 91 of the Constitution Act, 1867, to section 25 of this Act or to this Part,

(a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada, and

(b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item"

4. The said Act is further amended by adding thereto, immediately after section 37 thereof the following Part

"PART IV.1

CONSTITUTIONAL CONFERENCES

37.1(1) In addition to the conference convened in March 1983, at least two constitutional conferences composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada, the first within three years after April 17, 1982 and the second within five years after that date.

(2) Each conference convened under subsection (1) shall have included in its agenda constitutional matters that directly affect the aboriginal peoples of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on those matters.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories."

(4) Nothing in this section shall be construed so as to derogate from subsection 35(1)

5. The said Act is further amended by adding thereto, immediately after section 54 thereof, the following section:

"54.1 Part IV.1 and this section are repealed on April 18, 1987."

6. The said Act is further amended by adding thereto the following section

"61. A reference to the Constitution Acts, 1867 to 1982 shall be deemed to include a reference to the Constitution Amendment Proclamation, 1983."

7. This Proclamation may be cited as the Constitution Amendment Proclamation, 1983.

Constitutional conferences

Participation of aboriginal peoples

Participation of territories

Subsection 35 (1) not affected

Repeal of Part IV.1 and this section

References

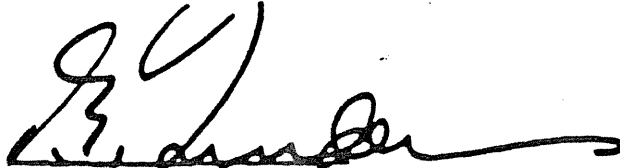
Citation


Land claims agreements

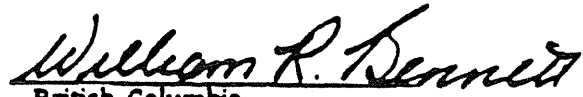
Aboriginal and treaty rights are guaranteed equally to both sexes

Commitment to participation in constitutional conference

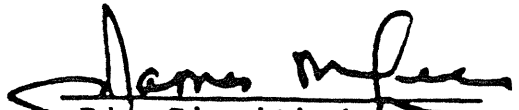
Signed at Ottawa this 16th day of March, 1983 by the Government of Canada and the provincial governments:

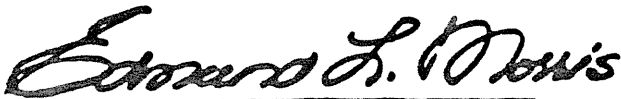

Canada

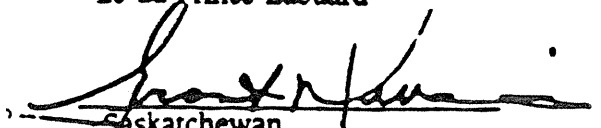

Ontario

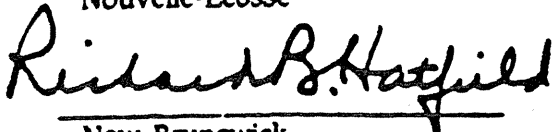

British Columbia
Colombie-Britannique

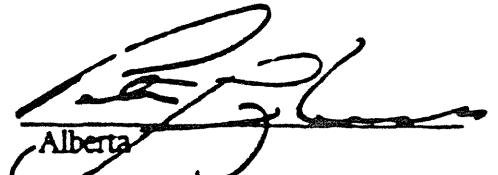
Québec

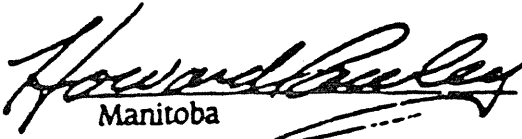

Prince Edward Island
Île-du-Prince-Édouard


Nova Scotia
Nouvelle-Écosse


Saskatchewan



New Brunswick
Nouveau-Brunswick

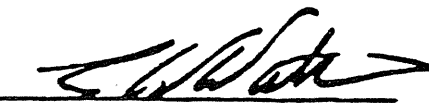

Alberta



Manitoba

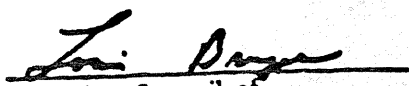

Newfoundland
Terre-Neuve

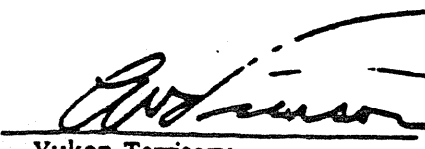
AND WITH THE PARTICIPATION OF:

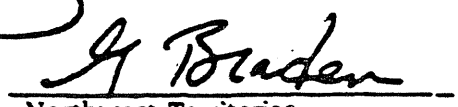

Assembly of First Nations
Assemblée des Premières Nations


Inuit Committee on National Issues
Comité inuit sur les Affaires nationales


Métis National Council
Ralliement national des Métis


Native Council of Canada
Conseil des Autochtones du Canada


Yukon Territory
Territoire du Yukon


Northwest Territories
Territoires du Nord-Ouest