

FIRST MINISTERS' CONFERENCE
ON
ABORIGINAL CONSTITUTIONAL MATTERS

CONFÉRENCE DES PREMIERS MINISTRES
SUR LES QUESTIONS CONSTITUTIONNELLES
INTÉRESSANT LES AUTOCHTONES

*Clarification of MTEP Panel
due to area Boards -
Presented to MTEP
40 area Board*

1983 CONSTITUTIONAL ACCORD
ON ABORIGINAL RIGHTS

ACCORD CONSTITUTIONNEL DE 1983
SUR LES DROITS DES AUTOCHTONES

FEDERAL
FÉDÉRAL

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 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 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.

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

Fait à Ottawa le 16 mars 1983,
par le gouvernement du Canada
et les gouvernements provinciaux:

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:

ET AVEC LA PARTICIPATION DE:

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

Aboriginal and treaty rights are guaranteed equally to both sexes

(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."

(4) Indépendamment de toute autre disposition de la présente loi, les droits - ancestraux ou issus de traités - visés au paragraphe (1) sont garantis également aux personnes des deux sexes.➤

Egalité de garantie des droits pour les deux sexes

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

3. La même loi est modifiée par insertion, après l'article 35, de ce qui suit :

Commitment to participation in constitutional conference

"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,

«35.1 Les gouvernements fédéral et provinciaux sont liés par l'engagement de principe selon lequel le premier ministre du Canada, avant toute modification de la catégorie 24 de l'article 91 de la Loi constitutionnelle de 1867, de l'article 25 de la présente loi ou de la présente partie :

Engagement relatif à la participation à une conférence constitutionnelle

(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

a) convoquera une conférence constitutionnelle réunissant les premiers ministres provinciaux et lui-même et comportant à son ordre du jour la question du projet de modification;

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

b) invitera les représentants des peuples autochtones du Canada à participer aux travaux relatifs à cette question.➤

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

4. La même loi est modifiée par insertion, après l'article 37, de ce qui suit :

"PART IV I

«PARTIE IV.1

CONSTITUTIONAL CONFERENCES

CONFÉRENCES CONSTITUTIONNELLES

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.

37.1(1) En sus de la conférence convoquée en mars 1983, le premier ministre du Canada convoque au moins deux conférences constitutionnelles réunissant les premiers ministres provinciaux et lui-même, la première dans les trois ans et la seconde dans les cinq ans suivant le 17 avril 1982.

Conférence constitutionnelles

Participation of aboriginal peoples

(2) Each conference convened under subsection (1) shall have included in its agenda constitutional matters that directly affect the aboriginal peoples of Canada,

(2) Sont placés à l'ordre du jour de chacune des conférences visées au paragraphe (1) les questions constitutionnelles qui intéressent directement les peuples autochtones du Canada.

Participation des peuples autochtones

and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on those matters.

Participation of territories

(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 "

(3) Le premier ministre du Canada invite des représentants élus des gouvernements du territoire du Yukon et des territoires du Nord-Ouest à participer aux travaux relatifs à toute question placée à l'ordre du jour des conférences visées au paragraphe (1) et qui, selon lui, intéresse directement le territoire du Yukon et les territoires du Nord-Ouest.

Participation des territoires

Non-derogation

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

SCHEDULE

ANNEXE

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 sections 38 and 41 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".

and
claims
agreements

Motion de résolution autorisant Son Excellence le gouverneur général à prendre une proclamation portant modification de la Constitution du Canada

Considérant :

que la *Loi constitutionnelle de 1982* prévoit que la Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat et de la Chambre des communes et par des résolutions des assemblées législatives dans les conditions prévues aux articles 38 et 41;

que la Constitution du Canada, à l'image du pays et de la société canadienne, est en perpétuel devenir dans l'affermissement des droits et libertés qu'elle garantit;

que les Canadiens, après la longue évolution de leur pays de simple colonie à État indépendant et souverain, ont, depuis le 17 avril 1982, tout pouvoir pour modifier leur Constitution au Canada;

que l'histoire et l'équité demandent que la première manifestation de ce pouvoir porte sur les droits et libertés des peuples autochtones du Canada, premiers habitants du pays,

le Sénat la Chambre des communes l'assemblée législative a résolu d'autoriser

Son Excellence le gouverneur général à prendre, sous le grand sceau du Canada, une proclamation modifiant la Constitution du Canada comme il suit:

PROCLAMATION MODIFIANT LA CONSTITUTION DU CANADA

1. L'alinéa 25b) de la Loi constitutionnelle de 1982 est abrogé et remplacé par ce qui suit:

«b) aux droits ou libertés existants issus d'accords de revendications territoriales ou ceux susceptibles d'être ainsi acquis.

2. L'article 35 de la Loi constitutionnelle de 1982 est modifié par adjonction de ce qui suit:

«(3) Il est entendu que sont compris parmi les droits issus de traités, dont il est fait mention au paragraphe (1), les droits issus d'accords de revendications territoriales ou ceux susceptibles d'être ainsi acquis.

Accords de
revendica-
tions
territo-
riales

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

Repealed Part IV.1 and this section

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

5. La même loi est modifiée par insertion, après l'article 54, de ce qui suit :

«54.1 La partie IV.1 et le présent article sont abrogés le 18 avril 1987.»

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

References

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

61. La même loi est modifiée par adjonction de ce qui suit :

«61. Toute mention des *Lois constitutionnelles de 1867 à 1982* est réputée constituer également une mention de la *Proclamation de 1983 modifiant la Constitution.*»

Menti

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

Title

7. Titre de la présente proclamation : *Proclamation de 1983 modifiant la Constitution.*

Titre