





# Understanding Constitutional Reform




There are five amending processes laid out in Part V of *The Constitution Act, 1982*:

- 1 Those requiring the support of the federal Parliament and the legislatures of all 10 provinces.
- 2 Those requiring the support of the federal Parliament and at least two thirds of the provinces representing 50 percent of the population of all of the provinces.
- 3 Those requiring the support of only the federal Parliament and the certain provinces affected by the amendments.
- 4 Those requiring only the support of federal Parliament.
- 5 Those requiring the support of only one province.


Since the amending formulas came into effect in 1982, there have been ten formal amendments to the Constitution of Canada:



- 2 1. Constitution Amendment Proclamation, 1983: dealt with Aboriginal rights. **This amendment was made using the 7/50 formula. Trudeau was Prime Minister**
- A 2. Representation Act, 1985: permitted future changes to the distribution of seats for Parliament to be done by ordinary statute. **Mulroney was Prime Minister**
- 5 3. Constitution Amendment, 1987: (Newfoundland Act) extended education rights to the Pentecostal Church. **Mulroney was Prime Minister**
- 5 4. Constitution Amendment Proclamation, 1993: (New Brunswick Act) made English and French both official languages in New Brunswick. **Mulroney was Prime Minister**
- 5 5. Constitution Amendment Proclamation, 1993: (Prince Edward Island) cleared the way for the "fixed link" bridge to replace ferry services to P.E.I. (Relieved Canada of the obligation to provide ferry service to Prince Edward Island upon completion of the Confederation Bridge.) **Chretien was Prime Minister (more...)**



- 5 6. Constitution Amendment Proclamation, 1997: (Newfoundland Act) allowed the Province of Newfoundland to create a secular school system to replace the church-based education system. **Chretien was Prime Minister**
- 5 7. Constitution Amendment, 1997: (Quebec) permitted the province to replace the denominational school boards with ones organized on linguistic lines. **Chretien was Prime Minister**
- 5 8. Constitution Amendment, 1998: (Newfoundland) allowed the province to abolish the denominational school system. **Chretien was Prime Minister**
- A 9. Constitution Act, 1999: (Nunavut) provides for representation in the House of Commons and the Senate for the Nunavut Territory. **Chretien was Prime Minister**
- 5 10. Constitution Amendment, 2001: (Newfoundland and Labrador) changed the name of the "Province of Newfoundland" to the "Province of Newfoundland and Labrador." **Chretien was Prime Minister**



### Proposed Major Amendments

A number of proposals for major changes to the Constitution have been made over the years, without success. Several comprehensive packages have come close, having initial agreement among the first ministers, but failed to get enough sustained support to be made into law.

The first ministers have agreed on two other sets of proposed amendments, but they failed to pass:

- 1 • **The Meech Lake Accord (1987)**: Originally agreed to by all ten premiers and the Prime Minister of Canada in 1987, and again in 1990. But this measure failed to gain approval of all the legislatures. (Newfoundland & Manitoba never ratified.)
- 1 • **The Charlottetown Accord (1992)**: Negotiated in 1992 with unanimous agreement among the first ministers, but failed to become law when it was defeated in two separate referendums (Quebec and the rest of Canada).



### What's the difference between a territory and a province?

A province is created under the constitution, while a territory is created through federal law. Big difference!

1. Crown lands in the territories are retained by the federal government in the Crown in right of Canada, as opposed to the provinces wherein Crown lands can be held in the Crown in right of the province.
2. Federal Parliament may enter into provincial-type affairs within territories, such as school curriculum.
3. Territorial governments are not included in the Constitutional amending formula. Provinces get a vote... territories don't!

Thus, territories don't generally have as much power over their own affairs as do provinces.

## PEI's Confederation Bridge

Prince Edward Island joined the Canadian Confederation in 1873 and at that time, the Federal Government promised the Islanders continuous transport between PEI and the mainland. By 1917, a permanent ferry service was implemented across the Northumberland Strait which lasted for more than 80 years. The technology of the 90's made the construction of an almost 13 kilometre bridge possible.

In June of 1997, the Confederation Bridge, linking Cape Jourimain, New Brunswick, and Borden-Carleton, Prince Edward Island, became a reality. It is presently the longest bridge in the world to cross ice-covered salt water.

## Constitution Act, 1999 (Nunavut)

*[Extracts of An Act to amend the Nunavut Act and the Constitution Act, 1867]*  
*46-47 Elizabeth II, 1999, c. 33 (Canada)*  
*[Assented to 13th June 1999.]*

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

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 PART II  
 CONSTITUTION ACT, 1867

43. (1) The number of Senators provided for in section 21 of the *Constitution Act, 1867*, as amended, is increased from one hundred and four to one hundred and five.

(2) The maximum number of Senators referred to in section 28 of that Act is increased from one hundred and twelve to one hundred and thirteen.

(3) The Yukon Territory, the Northwest Territories and Nunavut are entitled to be represented in the Senate by one member each.

44. For the purposes of this Part, the word "Province" in section 23 of the *Constitution Act, 1867* has the same meaning as is assigned to the word "province" by section 35 of the Interpretation Act.

45. The member of the Senate who represents the Northwest Territories immediately before the day that section 3 of the Nunavut Act comes into force shall, on and after that day, continue as the member of the Senate who represents one of the following:

(a) Nunavut, if the member resides in the part of the Northwest Territories referred to in section 3 of that Act immediately before that day; or (b) the Northwest Territories, in any other case.

46. Subsection 31(2) of the *Constitution Act, 1867*, as enacted by the *Constitution Act (No. 1), 1975*, is replaced by the following:

(2) The Yukon Territory as bounded and described in the schedule to chapter Y-2 of the Revised Statutes of Canada, 1985, shall be entitled to one member, the Northwest Territories as bounded and described in section 2 of chapter N-27 of the Revised Statutes of Canada, 1985, as amended by section 77 of chapter 28 of the Statutes of Canada, 1993, shall be entitled to one member, and Nunavut as bounded and described in section 3 of chapter 28 of the Statutes of Canada, 1993, shall be entitled to one member. 47. This Part may be cited as the Constitution Act, 1999 (Nunavut), and a reference to the Constitution Acts, 1867 to 1982 is deemed to include a reference to the *Constitution Act, 1999 (Nunavut)*.

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*Coming into Force*

52. (1) Despite section 79 of the Nunavut Act, section 2 of that Act, as amended by section 1 of this Act, section 50.1 of that Act, as enacted by section 9 of this Act, and sections 76.01 to 76.07 and 76.09 of that Act, as enacted by section 16 of this Act, come into force on the day that this Act is assented to.

(2) Part 2 comes into force on the day that section 3 of the Nunavut Act comes into force.