

at all by a provincial legislature would be considered to be approval. Subject to these general rules, parts of the Constitution referring only to the central government machinery and having no relation to the federal character of the country should be amended by action of the Federal Parliament alone. In matters of exclusive provincial concern and in matters of mutual concern to provincial and federal levels of government, there should be joint action of the Federal Parliament and of the legislatures of two-thirds of the provinces representing at least 55 p.c. of the population. There were included amendments relating to the composition of the Senate and to the distribution of legislative power, excepting items 12 and 14 of Sect. 92. Difficulty was experienced in dealing with items 13 and 16, but a suggested compromise was that where an amendment relating to them was carried by the two-thirds and 55 p.c. rule it would still be possible for a dissenting province to continue to enjoy exclusive jurisdiction over the matter dealt with in the amendment. Finally, there were entrenched sections that could be amended only by unanimous agreement—parliamentary representation, solemnization of marriage, administration of justice, provincial courts and civil procedure, education, and the use of the English and French languages.

One province dissented from these proposals and they were never proceeded with. They represented the closest that Canada had ever come to an agreed amending procedure. The sub-conference did not meet again, and the general question of amending procedure was not revived until 1950.

In that year a conference of the federal and provincial governments met in January and re-convened in September of the same year. A committee of attorneys-general agreed on the following report.

“Your committee recommends the following resolutions:—

1. That the provisions of the British North America Acts, 1867-1949 and other constitutional Acts be grouped under six heads, namely:—

- (1) Provisions which concern parliament only.
- (2) Provisions which concern the provincial legislatures only.
- (3) Provisions which concern parliament and one or more but not all of the provincial legislatures.
- (4) Provisions which concern parliament and all of the provincial legislatures.
- (5) Provisions concerning fundamental rights (as for instance but without restriction, education, language, solemnization of marriage, administration of justice, provincial property in lands, mines and other natural resources) and the amendment of the amending procedures.
- (6) Provisions which should be repealed.

2. That in respect of group (1) amendment shall be made by an Act of the Parliament of Canada.

3. That in respect of group (2) amendment shall be made by Acts of the provincial legislatures.

4. That in respect of group (3) provision be made for amendment by an Act of the Parliament of Canada and an Act of the legislatures of each of the provinces affected.

5. That in respect of group (4) provision be made for amendment by an Act of the Parliament of Canada and Acts of such majority of the legislatures and upon such additional conditions, if any, as may be decided upon.

6. That in respect of group (5) provision be made for amendment by an Act of the Parliament of Canada and Acts of the legislatures of all the provinces.

7. It is recommended that the process of amendment in respect of categories (3) to (6) inclusive of paragraph 1 be capable of being initiated by one or more of the provincial legislatures or by the Parliament of Canada.

8. In the opinion of this committee, the subject of delegation of powers should be placed upon the agenda.”*

It will be seen at once that greater degree of unanimity gained over that obtained in 1935 had been obtained at a price—a more complex procedure with a greater degree of rigidity. It further became apparent, when the Conference remitted to a continuing committee of attorneys-general the task of fitting the detailed sections of the Constitution

* See Canada Year Book 1951, pp. 103-105.