

on the statute law and the common law inheritance. These rights were confirmed, as far as federal law is concerned, by the passage of a Canadian bill of rights — An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms (SC 1960, c.44) assented to August 10, 1960.

The right to use either the English or the French language in the House of Commons, the Senate, the legislature of Quebec and the federal and Quebec courts is constitutionally guaranteed by Section 133 of the BNA Act. The use of English and French in the administration of the federal government and its Crown corporations is dealt with in the Official Languages Act (RSC 1970, c.O-2) assented to July 9, 1969. That act provides that government notices to the public, certain orders and regulations, and final decisions of federal courts are to be made or issued in both languages and that, in the national capital region and in federal bilingual districts, government services are to be available in both languages. The commissioner of official languages is responsible for ensuring compliance with this act.

2.1.1 Amendment of the constitution

No provision was made in the BNA Act for its amendment by any legislative body in Canada but both the Parliament of Canada and the provincial legislatures were given legislative jurisdiction with respect to certain matters relating to government. For example, the Parliament of Canada was given jurisdiction over the establishment of electoral districts and election laws and the privileges and immunities of members of the Senate and House of Commons. Each provincial legislature was empowered to amend the constitution of its province except as regards the office of lieutenant-governor. Amendments to the BNA Act have been made by the British Parliament on 14 occasions since 1867. By an amendment to the BNA Act in 1949, the authority of the Parliament of Canada to legislate with respect to constitutional matters was considerably enlarged and it may now amend the constitution of Canada except as regards the legislative authority of the provinces, the rights and privileges of provincial legislatures or governments, schools, the use of English or French and the provision that no House of Commons shall continue for more than five years other than in time of real or apprehended war, invasion or insurrection.

The search for a satisfactory procedure for amending the constitution in Canada which satisfies the need to safeguard basic provincial and minority rights and yet possesses sufficient flexibility to ensure that the constitution can be altered to meet changing circumstances has been the subject of repeated consideration in Parliament as well as in a series of federal-provincial conferences and meetings held in 1927, 1935-36, 1950 and 1960-61. In October 1964 the text of a draft bill "to provide for the amendment in Canada of the constitution of Canada," which embodied an amending procedure or formula and was recommended by a conference of attorneys general, was unanimously accepted by a conference of the prime minister and the premiers. Quebec subsequently withdrew its approval of the formula and it was never adopted.

Between February 1968 and June 1971, eight federal-provincial conferences were held to study the drafting of a new constitution. A committee was established to help study constitutional questions. The provincial governments, with one exception, and the federal government submitted proposals for a new constitution. The discussions culminated in the drafting of a constitutional charter which set out specific constitutional reforms, including a revised amendment procedure. The charter was considered at a constitutional conference in Victoria in June 1971 but was not accepted.

Federal-provincial conferences of first ministers were convened in October 1978 and February 1979 where a wide range of issues relating to a renewed constitution were discussed, including changes in some central institutions (the Senate and the Supreme Court), an entrenched charter of rights and freedoms, modifications in the distribution of legislative powers, and an amending formula. This initiative was to be continued through a Continuing Committee of Ministers on the Constitution.

2.1.2 Treaty-making powers

The federal government is responsible for the conduct of external affairs. The policy in discharging this responsibility is to promote the interest of the entire country.