

# BIG DECISIONS

## 1976-1982



**Senate and House of Commons Joint committee hearing responsible for studying the Amendment to the Constitution Act and the Canadian Charter of rights and freedoms. Winter 1981. <http://sen.parl.gc.ca/sjoyal/e/biography.html>**

# 1976 PQ ELECTED IN QUEBEC

- Rene Levesque -- Ti Pol
- Separatist
- Charter of the French Language





# 1980 REFERENDUM

- ✿ Levesque wanted Quebecers to vote yes to start discussions with Canada regarding sovereignty-association



- ✿ Trudeau countered with powerful speeches and promised a new constitution if Quebec voted NO

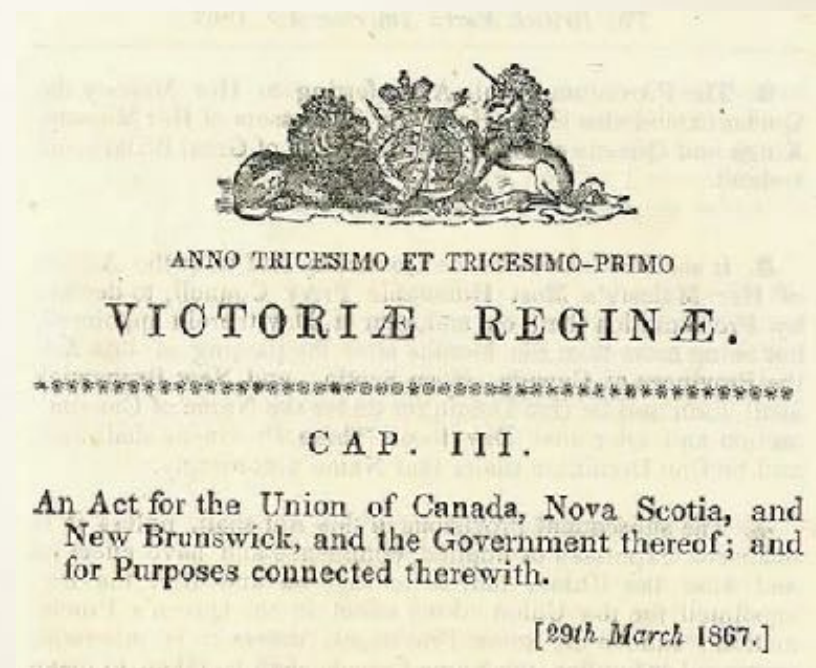


- ✿ 40% YES / 60% NO



# PATRIATING THE CONSTITUTION

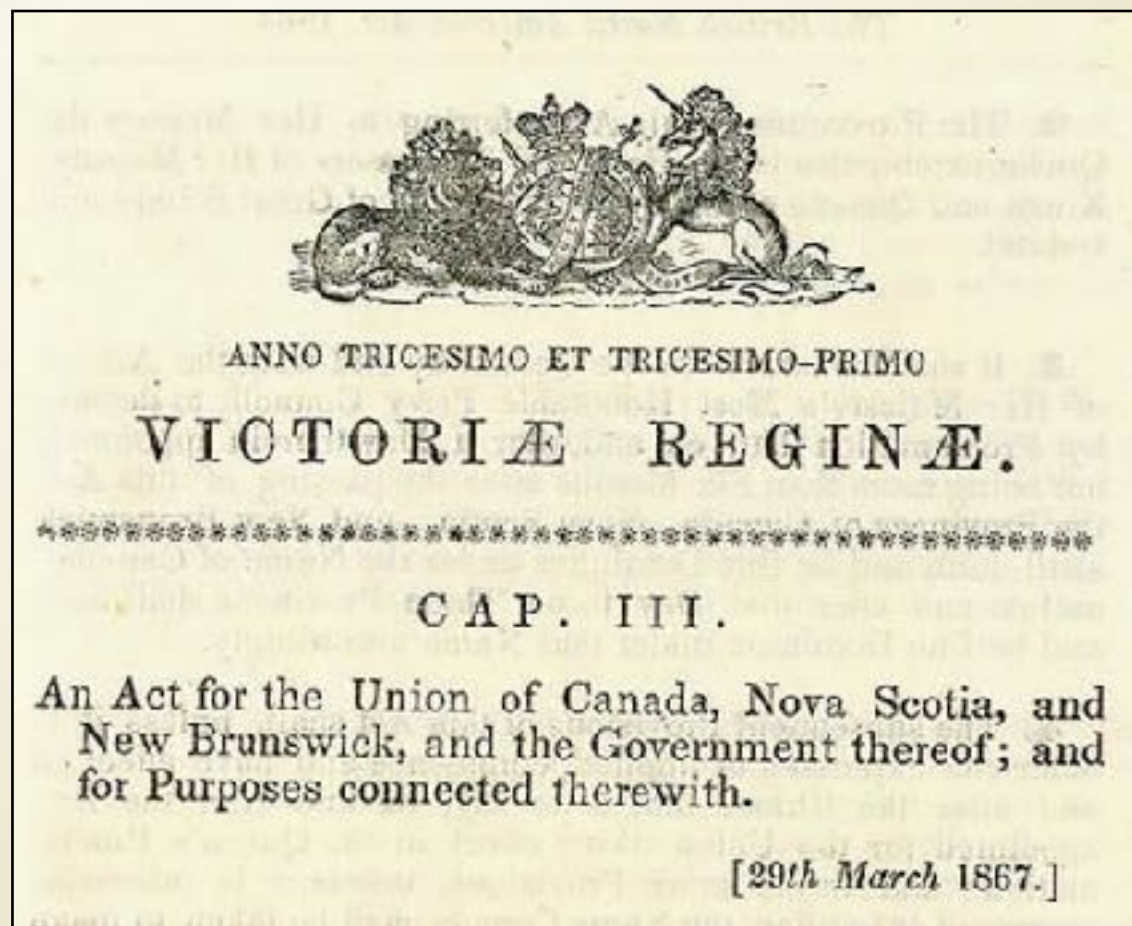
- Trudeau wanted to bring the Constitution home to Canada
- Since 1867 BNA Act held in England / Changes couldn't be made without British consent
- Trudeau wanted to include the Charter of Rights and Freedoms





# PATRIATING THE CONSTITUTION

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# CHALLENGE OF CHANGE

- Trudeau had to develop an amending formula - how many Provinces would have to agree in order for changes to be made? All of them, over 50%, ??????
- Kitchen Compromise - Nov 4 1981 after a series of meetings failed to resolve the issue, Chretien led 9 out of 10 Premiers to reach a compromise - Levesque wasn't invited as he was at another hotel.
- Premiers to sign charter if a non-withstanding clause was added -- allowed conditional “opt out”
- Amending formula 7 out of 10 must agree -- must be 50% of total pop.

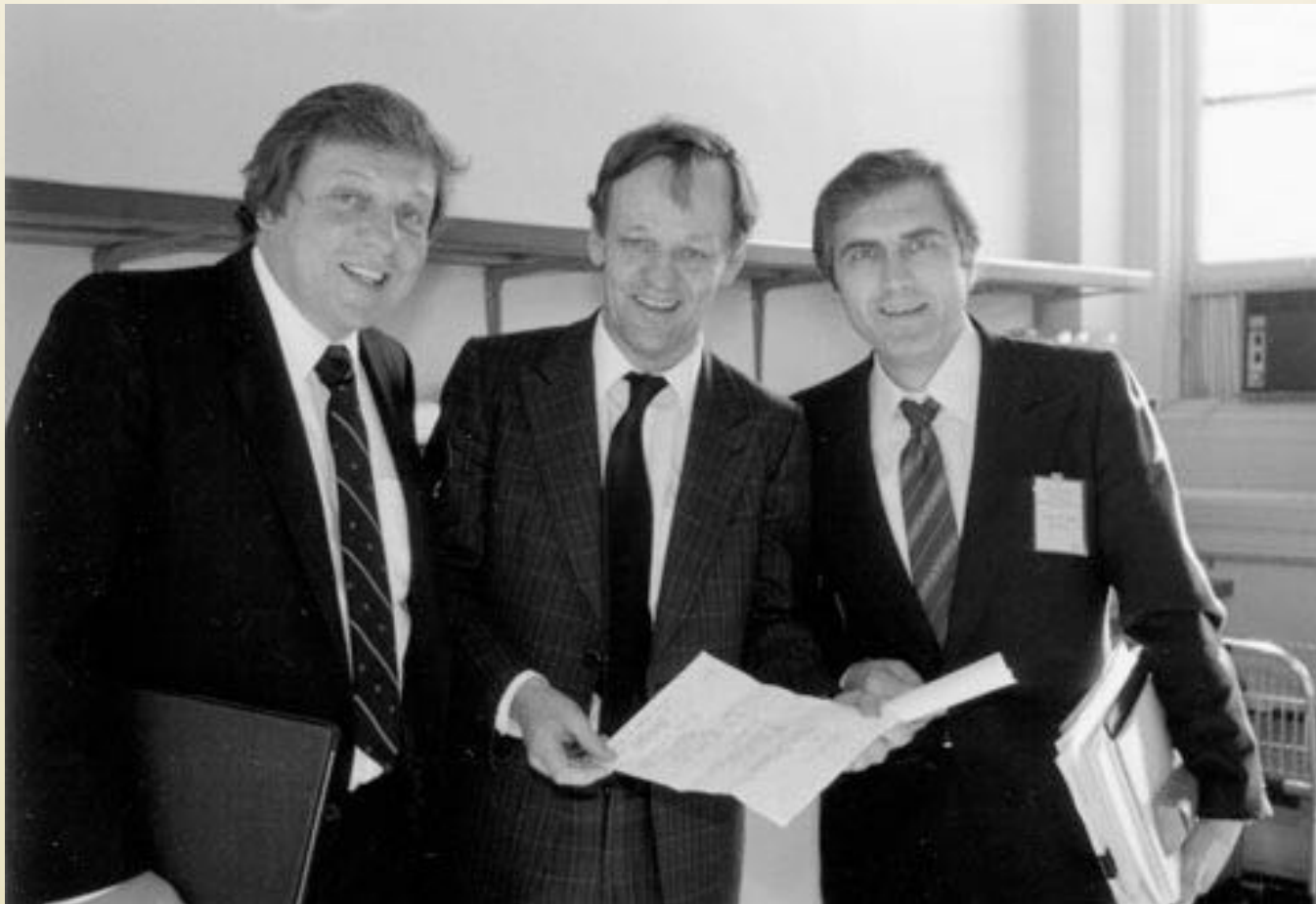
# KITCHEN ACCORD

- Levesque was very upset and argued against the deal.
- The people of Quebec felt betrayed - Remember Trudeau's promise (1980)
- Trudeau accepted the compromise
- Quebec refused to sign the New Constitution
- Signed by Queen Elizabeth in Ottawa April 17 1982
- Flags flew at half mast in Quebec and protests were held



# 1981 KITCHEN COMPROMISE

- Amending Formula
- Notwithstanding Clause





## ELIZABETH THE SECOND

by the grace of God of the United Kingdom, Canada,  
and Her other Realms and Territories Queen,  
head of the Commonwealth, Defender of the Faith.

To all to whom these presents shall come or  
whom the same may in anywise concern...

GREETING:

### A PROCLAMATION

*Ministry General of Canada*



**WE HEREBY** in the part certain amendments to the Constitution of Canada have been made by the Parliament of the United Kingdom at the request and with the consent of Canada...  
**AND WHEREAS** it is in accord with the status of Canada as an independent state that Canadians be able to amend their Constitution in all respects;  
**AND WHEREAS** it is desirable to provide in the Constitution of Canada for the recognition of certain fundamental rights and freedoms and to make other amendments to the Constitution;  
**AND WHEREAS** the Parliament of the United Kingdom has therefore, at the request and with the consent of Canada, enacted the Canada Act, which provides for the partition and amendment of the Constitution of Canada;  
**AND WHEREAS** section 34 of the Constitution Act, 1982, set out in Schedule B to the Canada Act, provides that the Constitution Act, 1982, shall, subject to section 35 thereof, come into force on a day to be fixed by proclamation issued under the Great Seal of Canada...  
**THEREFORE** We do, by and with the advice of Our Privy Council for Canada, do by this Our Proclamation, declare that the Constitution Act, 1982, shall, subject to section 34 thereof, come into force on the Seventeenth day of April, in the Year of Our Lord One Thousand Nine Hundred and Eighty-two.  
**WE DO ENJOIN** Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

**IN TESTIMONY WHEREOF** We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.  
At Our City of Ottawa, this Seventeenth day of April in the Year of Our Lord One Thousand Nine Hundred and Eighty-two and in the Thirty-first Year of Our Reign.

By Her Majesty's Command,

Registrar General of Canada

Prime Minister of Canada



Elizabeth II  
Queen of Canada

## ELIZABETH DEUX

par la grâce de Dieu Reine du Royaume-Uni, du  
Canada, et de ses autres Royaumes et Territoires,  
chef du Commonwealth, Défenseur de la Foi.

À tous ceux que les présentes peuvent de quelque  
manière concerner...

SALUT:

### PROCLAMATION

*Le premier ministre du Canada*

**CONSIDÉRANT** :  
**QU'** à la demande et avec le consentement du Canada, le Parlement du Royaume-Uni a déjà modifié à plusieurs reprises la Constitution du Canada...  
**QU'** en vertu de leur appartenance à un État souverain, les Canadiens se doivent de démontrer pouvoir de modifier leur Constitution au Canada...  
**QU'** il est souhaitable d'inscrire dans la Constitution du Canada la reconnaissance d'un certain nombre de libertés et de droits fondamentaux et d'y apporter d'autres modifications;  
**QUE** le Parlement du Royaume-Uni, à la demande et avec le consentement du Canada, a adopté en conséquence la Loi sur le Canada, qui prévoit le respectement de la Constitution canadienne et sa modification...  
**QUE** l'article 34, figurant à l'annexe B de la Loi sur le Canada, stipule que, sous réserve de l'article 34, la Loi constitutionnelle de 1982 entrera en vigueur à une date fixée par proclamation sous le grand sceau du Canada...  
**NOUS PROCLAMONS** sur l'avis de Notre Conseil privé pour le Canada, que la Loi constitutionnelle de 1982 entrera en vigueur, sous réserve de l'article 34, le dix-septième jour du mois d'avril en l'an de grâce mil neuf cent quatre-vingt-deux.  
**NOUS DEMANDONS À** Nos loyaux sujets et à toute autre personne concernée de prendre acte de la présente proclamation...  
**EN TOUTE FOI** Nous avons rendu les présentes lettres patentes et y avons fait apposer le grand sceau du Canada...  
Fait en Notre ville d'Ottawa, ce dix-septième jour du mois d'avril en l'an de grâce mil neuf cent quatre-vingt-deux, la trente et unième de Notre règne.

Par ordre de Sa Majesté

Le registraire général du Canada

Le premier ministre du Canada



GOD SAVE THE QUEEN

DIEU PROTÈGE LA REINE

# ELIZABETH THE SECOND

BY THE GRACE OF GOD OF THE UNITED KINGDOM, CANADA  
AND HER OTHER REALMS AND TERRITORIES QUEEN,  
HEAD OF THE COMMONWEALTH, DEFENDER OF THE FAITH.

TO ALL TO WHOM THESE PRESENTS SHALL COME OR  
WHOM THE SAME MAY IN ANYWAY CONCERN.

GREETING:

## A PROCLAMATION



**WHEREAS** in the past certain amendments to the Constitution of Canada have been made by the Parliament of the United Kingdom at the request and with the consent of Canada...  
**AND WHEREAS** it is in accord with the status of Canada as an independent state that Canadians be able to amend their Constitution in Canada in all respects;  
**AND WHEREAS** it is desirable to provide in the Constitution of Canada for the recognition of certain fundamental rights and freedoms and to make other amendments to the Constitution;  
**AND WHEREAS** the Parliament of the United Kingdom has therefore, at the request and with the consent of Canada, enacted the Canada Act, which provides for the partition and amendment of the Constitution of Canada;  
**AND WHEREAS** section 59 of the Constitution Act, 1982, set out in Schedule B to the Canada Act, provides that the Constitution Act, 1982 shall, subject to section 54 thereof, come into force on a day to be fixed by proclamation issued under the Great Seal of Canada...  
**NOW KNOW** You that We, by and with the advice of Our Privy Council for Canada, do by this Our Proclamation, declare that the Constitution Act, 1982 shall, subject to section 54 thereof, come into force on the Seventeenth day of April, in the Year of Our Lord One Thousand Nine Hundred and Eighty-two.  
**OF ALL WHICH** Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

**IN TESTIMONY WHEREOF** We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed...  
At Our City of Ottawa, this Seventeenth day of April in the Year of Our Lord One Thousand Nine Hundred and Eighty-two and in the thirty-first Year of Our Reign.

By Her Majesty's Command.

Registrar General of Canada.

Prime Minister of Canada.



Elizabeth II

Queen of Canada

Attorney General of Canada

# ELIZABETH DEUX

PAR LA GRÂCE DE DIEU REINE DU ROYAUME-UNI, DU  
CANADA ET DE SES AUTRES ROYAUMES ET TERRITOIRES,  
CHEF DU COMMONWEALTH, DÉFENSEUR DE LA FOI.

À TOUTS CEUX QUE LES PRÉSENTES PEUVENT DE QUELQUE  
MANIÈRE CONCERNER.

SALUT:

## PROCLAMATION

Le procureur général du Canada

À la demande et avec le consentement du Canada, le Parlement du Royaume-Uni a déjà modifié à plusieurs reprises la Constitution du Canada...  
en vertu de leur appartenance à un État souverain, les Canadiens se doivent de déterminer tout pouvoir de modifier leur Constitution au Canada...  
il est souhaitable d'insérer dans la Constitution du Canada la reconnaissance d'un certain nombre de libertés et de droits fondamentaux et d'y apporter d'autres modifications...  
le Parlement du Royaume-Uni, à la demande et avec le consentement du Canada, a adopté en conséquence la Loi sur le Canada, qui prévoit le rapatriement de la Constitution canadienne et sa modification...  
l'article 54, figurant à l'annexe B de la Loi sur le Canada, stipule que, sous réserve de l'article 59, la Loi Constitutionnelle de 1982 entrera en vigueur à une date fixée par proclamation sous le grand sceau du Canada...  
sur l'avis de Notre Conseil privé pour le Canada, que la Loi Constitutionnelle de 1982 entrera en vigueur, sous réserve de l'article 59, le dix-septième jour du mois d'avril en l'an de grâce mil neuf cent quatre-vingt-deux.  
**DEMANDONS À** Nos loyaux sujets et à toute autre personne concernée de prendre acte de la présente proclamation...  
**EN FOI DE QUOI** Nous avons rendu les présentes lettres patentes et y avons fait apposer le grand sceau du Canada...  
Fait en Notre ville d'Ottawa, ce dix-septième jour du mois d'avril, en l'an de grâce mil neuf cent quatre-vingt-deux, le trente-et-unième de Notre règne.

Par ordre de Sa Majesté

Le registraire général du Canada

Le premier ministre du Canada



GOD SAVE THE QUEEN

DIEU PROTÈGE LA REINE



# THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS





## **What is the Canadian Charter of Rights and Freedoms?**

The Canadian Charter of Rights and Freedoms is one part of the Canadian Constitution. The Constitution is a set of laws containing the basic rules about how our country operates. For example, it contains the powers of the federal government and those of the provincial governments in Canada.

The Charter sets out those rights and freedoms that Canadians believe are necessary in a free and democratic society. Some of the rights and freedoms contained in the Charter are:

- freedom of expression
- the right to a democratic government
- the right to live and to seek employment anywhere in Canada
- legal rights of persons accused of crimes
- Aboriginal peoples' rights
- the right to equality, including the equality of men and women
- the right to use either of Canada's official languages
- the right of French and English linguistic minorities to an education in their language
- the protection of Canada's multicultural heritage.

The way the Charter protects these rights and freedoms is explained in Part II of this Guide.

Before the Charter came into effect, other Canadian laws protected many of the rights and freedoms that are now brought together in it. One example is the Canadian Bill of Rights, which Parliament enacted in 1960. The Charter differs from these laws by being part of the Constitution of Canada.