

1990 BILL 36

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 36

CONSTITUTION OF ALBERTA
AMENDMENT ACT, 1990

HON. MR. ROSTAD

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 36

1990

CONSTITUTION OF ALBERTA AMENDMENT ACT, 1990

(Assented to _____, 1990)

Table of Contents

Constitution amended	1
Definitions	2
Expropriation	3
Exemption from seizure	4
Restriction on Legislative Assembly	5
Application of laws	6
Power to affect Act	7
Repeal	8
Coming into force	9

WHEREAS the Metis were present when the Province of Alberta was established and they and the land set aside for their use form a unique part of the history and culture of the Province; and

WHEREAS it is desired that the Metis should continue to have a land base to provide for the preservation and enhancement of Metis culture and identity and to enable the Metis to attain self-governance under the laws of Alberta and, to that end, Her Majesty in right of Alberta is granting title to land to the Metis Settlements General Council; and

WHEREAS Her Majesty in right of Alberta has proposed the land so granted be protected by the Constitution of Canada, but until that happens it is proper that the land be protected by the constitution of the Province; and

WHEREAS section 45 of the *Constitution Act, 1982* empowers the legislature of a province, subject to section 41 of that Act, to amend the constitution of the province; and

WHEREAS nothing in this Act, the *Metis Settlements Land Protection Act*, the *Metis Settlements Accord Implementation Act* or the *Metis Settlements Act* is to be construed so as to abrogate or

derogate from any aboriginal rights referred to in section 35 of the *Constitution Act, 1982*;

NOW THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

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| Constitution amended | 1 The constitution of Alberta is amended by this Act. |
| Definitions | 2 In this Act, “Metis settlement land” means land held in fee simple by the Metis Settlements General Council under letters patent from Her Majesty in right of Alberta. |
| Expropriation | 3 The fee simple estate in Metis settlement land, or any interest in it less than fee simple, may not be acquired through expropriation by Her Majesty in right of Alberta or any person, but an interest less than fee simple may be acquired in that land in a manner permitted by the <i>Metis Settlements Land Protection Act</i> . |
| Exemption from seizure | 4 The fee simple estate in Metis settlement land is exempt from seizure and sale under court order, writ of execution or any other process whether judicial or extra-judicial. |
| Restriction on Legislative Assembly | 5 The Legislative Assembly may not pass any Bill that would <ol style="list-style-type: none">(a) amend or repeal the <i>Metis Settlements Land Protection Act</i>,(b) alter or revoke letters patent granting Metis settlement land to the Metis Settlements General Council, or(c) dissolve the Metis Settlements General Council or result in its being composed of persons who are not settlement members, without the agreement of the Metis Settlements General Council. |
| Application of laws | 6 Nothing in this Act shall be construed as limiting <ol style="list-style-type: none">(a) the application of the laws of Alberta to, or(b) the jurisdiction of the Legislature to enact laws in and for Alberta applicable to, the Metis settlement land and any activities on or in respect of that land, except to the extent necessary to give effect to this Act. |
| Power to affect Act | 7 A Bill that would amend or repeal this Act may be passed by the Legislative Assembly of Alberta only after a plebiscite of settlement members under the <i>Election Act</i> where a majority of the members of each settlement vote in favour of the subject-matter of the Bill. |

Repeal **8** Notwithstanding section 7, this Act may be repealed by the Legislature after the Metis settlement land is protected by the Constitution of Canada.

Coming into force **9** *This Act comes into force on Proclamation.*