

Lines in the Sand:

A Guide to the Pivotal Constitutional Amendment Proposals of the 2005 Convention of the Conservative Party of Canada

by

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On October 16, 2003, the leaders of the Progressive Conservative Party of Canada (the “PC” party) and the Canadian Reform Conservative Alliance (the “Alliance”) announced that they had signed an Agreement in Principle (“AiP”) to merge their respective parties. In December of 2003, the memberships of the two parties ratified the AiP. The result was the formation of a new federal party named the Conservative Party of Canada (the “CPC”).

The AiP set out nineteen “founding principles” for the new CPC. Sixteen of them were, word for word, the “Aims” and “Principles” set out in the then constitution of the federal PC party. The Principles of the Alliance appeared nowhere in the Agreement-in-Principle. To the sixteen PC Aims and Principles were added three more founding principles: commitments to bilingualism, to socialized health care, and to “free and fair” global trade.

Pursuant to Article 8(b) of the AiP, the development and adoption of the first constitution of the new CPC was a duty assigned to an Interim Joint Council of individuals appointed by each founding party. According to Article 13 of the AiP, the CPC’s first convention was responsible for “review and amendment of the constitution, including the statement of principles”. The date time and place of the CPC’s first convention was to be decided by the Interim Joint Council.

On December 4, 2004, the Interim Council of the CPC adopted the party’s first constitution (the “Constitution”). The 19 “founding principles” set out in the AiP became Article 2 of the new CPC constitution: no principles were added, deleted, or substantively altered. Thus, the CPC currently is founded largely upon the principles of the former PC party.

The CPC will hold its first ever Convention from March 17 to March 19, 2005. At that convention, as many as 57 Constitutional amendments will be voted upon by delegates to the convention. It is not clear whether the CPC membership proposed amendments to the CPC’s founding principles, but the list of proposed resolutions that will be addressed at the founding Convention make it clear that no amendments to the CPC’s founding principles will be discussed or voted upon at the Convention. The Aims and Principles of the former PC party will remain the founding principles of the CPC.

To be sure, the range and nature of a party's policies are largely determined by a party's founding principles. However, no less influential in the policy determination process are issues of process: leadership selection, co-operation with provincial political parties, the issue of whether members or party officials adopt party policy, and the effect of regional representation. These matters of process are determined largely by the CPC's constitution and, at the party's first Convention, several Amendments will be discussed that will be pivotal in determining the ultimate nature and the direction of the CPC for decades to come. This guide focusses upon these pivotal Amendments, and describes the impact of each. It is hoped that this guide will be a useful reference both for voters at the Convention, and for onlookers and commentators.

PIVOTAL AMENDMENTS: FOUR GROUPS

The amendments that appear most pivotal in determining the nature and direction of the CPC fall into 4 groups:

1. Election of the Leader: Members vs. Regions
2. Who Determines Party Policy: Bottom-Up vs. Top-Down
3. Who Determines Party Resolutions: Members vs. Regions
4. Association and Co-operation with Provincial Parties

I will address each of these groups of amendments separately, and then summarize. At the end of this guide, I provide a Table that summarizes the nature each Amendment, and that categorizes each as being in the tradition either of the PC party or of the Alliance.

1. ELECTION OF THE LEADER: MEMBERS vs. REGIONS

Currently, Article 10.9 of the Constitution states:

“10.9. The election of the Leader shall be by way of a direct vote of members in every electoral district, as follows.

10.9.1 Each member of the Party will have one vote.

10.9.2 Each electoral district will be allocated 100 points.

10.9.3 Leadership candidates will be assigned a point total based on their percentage of the vote in each electoral district.

10.9.4 To win the leadership, a candidate must obtain a majority of points from across the country.”

In other words, the constitution currently does not use the principle of *one-member-one-vote* in the Leader selection process. Rather, it *weights* each riding equally, regardless of the number of

members in each riding. This way, a constituency Association (“CA”) with a small membership (e.g., one in Quebec) can have the same influence as a CA with a huge membership (e.g., one in Calgary).

Proposed Amendment C-45 seeks to tweak this aspect of the Constitution. Specifically, rather than giving every CA 100 points automatically, each riding would have the lesser of (a) a number of points equal to the number of voting members in the CA, or (b) 100 points. The idea is to ensure that CAs with fewer than 100 voting members have less influence than all other CAs. The system sought in proposed Amendment C-45 is the same as that used in the 2004 Ontario Progressive Conservative Leadership race.

Proposed Amendment C-44 proposes that Articles 10.9.2, 10.9.3, and 10.9.4 (*emphasized* above) be deleted from the constitution. The effect of deleting those Articles would be to eliminate weighting, and put the party on a **one-member-one-vote** system for the purposes of selecting a Leader. Owing to the party’s history, this amendment could (at least temporarily) give members in western provinces a greater say than they currently have in the selection of the party Leader. This system, sometimes called “*pure one-member-one-vote*”, is the system that was used by the Reform Party of Canada and the Canadian Reform Conservative Alliance. Obviously, if proposed Amendment C-44 is adopted, proposed Amendment C-45 becomes *irrelevant*.

2. WHO DETERMINES PARTY POLICY: BOTTOM-UP vs. TOP-DOWN

Before discussing this group of proposed Amendments, it is necessary to define some terms appropriately. Like the old PC Party of Canada constitution, the CPC Constitution currently distinguishes between “resolutions”, “policies”, and the planks of an election “platform”:

- A **resolution** is a policy *proposal* that members have voted, at a convention, to recommend.
- A **policy** is a proposed change to the law or governance of Canada that the party has officially *adopted*: it is no mere wish, like a resolution. It is the result of a decision maker deciding that the party will stand for the thing set out in the policy. Policies, not resolutions, are what the party advocates.
- A plank in an election campaign **platform** is a policy that the party will promote *during an election*.

It will be noted that, pursuant to Article 10.2 of the current CPC Constitution:

“The Leader shall promote the Party, its principles and policies”.

Interestingly, the word “its” does not precede the word “policies” in Article 10.2, as would be expected were the Leader required to promote the *party’s* policies (rather than ones he makes independently of the party, perhaps on behalf of government). However, if we can assume that, despite the questionability of omitting the word “its”, the Leader is required to promote the *party’s* policies, then it is clear that the Leader is not required to promote mere *resolutions* of the members. Accordingly, it is immensely important to know how *policies* are adopted, and *by whom* they are adopted.

At present, the only real hints concerning policy adoption are set out in Article 13 of the current CPC constitution. Unfortunately, the hints come in the form of omissions: despite talking about a “policy resource”, the constitution is actually entirely silent on the matter of (a) how a policy is adopted, and (b) who is empowered to adopt policies. The omission from the Constitution of clear rules about how a policy is to be adopted is no mistake. The same omissions are to be observed in the old PC Party of Canada Constitution, and in the current Liberal Party of Canada constitution. In each case, the fact of the matter is that *members* do not adopt policies. Rather, in each case, members develop and adopt *resolutions* at party conventions. In the case of the old PC party and in the case of the CPC, those resolutions then form part of a “permanent policy resource” (“PPR”) for use by the Leader and his caucus.

Consider Article 13 of the current CPC Constitution:

“13.1 Prior to each national meeting where policy is to be considered, National Council shall create a membership driven policy development *process* that promotes the development and maintenance of the **permanent policy resource**.” (*emphasis added*)

In short, 13.1 indicates who determines the process for *development* of a *resource*. It is silent about policies themselves. Article 13 continues:

“13.2 The purposes of the **permanent policy resource** are:

13.2.1 to facilitate policy *discussion* within the Party and serve as a policy **resource to the Leader and parliamentary caucus**;

13.2.2 to *provide information* from a variety of sources that shall serve as a source of policy expertise and education;

13.2.3 to *identify* policy areas needing study;

13.2.4 to serve as a *means of communication* between members, electoral district associations, Presidents Forums and other affiliated organizations, the Leader and parliamentary caucus.” (*emphasis added*)

Summarized, 13.2 states that the purpose of the PPR is to *facilitate* discussion, *provide* information, *identify* areas for study, and *serve as* a means of communication. The PPR is *not* a statement of official party policy. It is merely what it says it is, a resource, and there is nothing in Article 13.2 that requires party to adopt any part of the PPR as party policy. Finally, Article 13.3 states:

“13.3 The National Council shall by by-law determine the rules governing the development and maintenance of the permanent policy resource and the process of policy development.” (*emphasis added*).

Again, this Article is not talking about party *policy* but about the PPR. To summarize, the CPC Constitution currently does not disclose (a) *how* party policies are adopted, or (b) *who* is empowered to adopt party policies.

It is clear that, at the 2005 CPC Convention, the issue of who adopts party policies, and how they are adopted, will be hotly contested. There are three (3) different Amendments on the issue: **C-50**, **C-51**, and **C-52**. Each proposed Amendment differs from and is mutually *inconsistent* with the other two. The choice of one of these three Amendments, or to not adopt any of them, is sure to dictate the nature and direction of the CPC for decades to come. I will describe and address each proposed Amendment in turn.

Proposed Amendment C-50 states:

”It is moved to delete Article 7.2.2, and to delete Article 13.1 and substitute the following:

13.1 Prior to each national meeting, National Council shall create a policy development process which respect sand encourages the participation of all members and which culminates in the adoption of policy resolutions at national meetings that become the Party’s official policy declaration document, *from which the party’s election campaign platform will be developed*”. (emphasis added)

If C-50 is adopted, the membership will indeed determine the content of the parties “official policy declaration document” (the “Declaration”). However, C-50 arguably allows room for policies that have not been voted upon by the membership to be promoted in an election campaign platform. The reason: C-50 is entirely silent on the issue of whether the party’s platform can contain policies that are not in the Declaration. The phrase “from which the party’s election campaign platform will be developed” could be interpreted in a way that allows the platform merely to be “based” on the sentiments set out in the Declaration.

Proposed Amendment C-51 is less ambiguous and *more* grass-roots oriented than C-50. C-51 states:

“It is moved to delete Article 13.1 and substitute the following:

13.1 Prior to each national meeting where policy is to be considered, National Council shall create a membership-driven policy development process that results in the adoption of policy resolutions by delegates to national meetings and *these adopted policies shall become the Party’s policy declaration* document, *our official policy position* until the next national meeting.”

Unlike C-50, C-51 leaves no wiggle room for the Leader or others to put into the election campaign platform policies that are not already in the Declaration. Under Amendment C-51, the members alone make and adopt policy, and the Leader - even in his election platform - is required to promote whatever policies are adopted at the most recent convention of the members (and, arguably, only those policies). For those who believe that the members alone should determine party policy in a “bottom-up” fashion, there is no substitute for proposed Amendment C-51.

Proposed Amendment C-52 is arguably the Amendment that would give members the *least* influence over party policy. It begins:

“It is moved to delete Article 13 and substitute the following:”

It then goes on to propose a new Article 13. Proposed Articles 13.1 and 13.2 are fairly innocuous. Proposed Article 13.1 simply states that there will be a policy committee that shall serve as a “policy resource”. It does not give the policy committee the power to adopt policies:

“13.1 National Council shall establish a **policy committee** whose responsibilities shall include:

- 13.1.1 facilitating the promotion and maintenance of an ongoing policy process of the Party, and ensuring that the policy process is at all times accountable to the members;
- 13.1.2 facilitating and supporting policy discussion within the Party and serving as a policy resource to the Party, the Leader and the parliamentary caucus;

13.1.3 providing information from a variety of sources that shall serve as a source of policy expertise and education;

13.1.4 identifying policy areas needing study; and

13.1.5 serving as a means of communication between members, electoral district associations, Presidents' Forums, and other affiliated organizations, the Leader and the parliamentary caucus on policy issues.”

Proposed Article 13.2 simply states who will be on the policy committee:

“13.2 The policy committee shall consist of:

13.2.1 a chair appointed by National Council;

13.2.2 the Chair of the National Council;

13.2.3 two members of National Council to be selected by National Council;

13.2.4 two representatives from each province selected by the presidents of the electoral district associations in each province; and

13.2.5 one representative for the three territories elected by the presidents of the electoral district associations from the territories.”

However, Article 13.3 of proposed Amendment C-42 then makes it very clear that policies are not to be determined by party members:

“13.3 Between national meetings, interim policies of the Party **shall be determined by the parliamentary caucus and the Leader** with interim approval by the policy committee provided such policies are consistent with the Party’s policy declaration document. Final approval of interim policies shall occur at national meetings and **these policies shall become the Party’s policy declaration document and the Party’s official policy position** until the next national meeting at which policy is discussed.” (emphasis added)

In other words, policies are “determined” by the parliamentary caucus and the Leader, not by the membership. Under proposed Amendment C-52, members at a national meeting are merely the final rubber stamp on policies that are “determined by the parliamentary caucus and the Leader” between Conventions. Policy will be “discussed” at a national meeting, but nowhere does Article 13 suggest that the members will *propose* policies and vote upon the policies that they propose. Once the membership has rubber stamped the policies “decided by the parliamentary caucus and Leader”, those policies (and those policies alone) “become” the party’s policy Declaration. Thus, proposed Amendment C-52 would allow the CPC to make policy in a manner more or less indistinguishable from the old PC Party of Canada, or from the Liberal Party of Canada. It is the proposal to make policy-making in the CPC a *top-down* affair.

Proposed Amendments C-50, C-51, and C-52 offer competing visions for the future of the CPC. Proposed Amendment C-50 suffers from ambiguity: ambiguity merely assures disagreements in the future. The real debate, ultimately, is whether the party should allow the *members* to decide policy (by adopting Amendment C-51) or whether the party should leave policy making to the *Leader and his parliamentary caucus* (by adopting Amendment C-52). C-51 allows the party to make policy in a manner akin to the old Reform Party of Canada, whereas C-52 allows the party to make policy in a manner akin to that of the old PC Party of Canada.

3. WHO DETERMINES PARTY RESOLUTIONS: MEMBERS vs. REGIONS

As explained above, resolutions adopted by members at party conventions are not policies under the current Constitution. However, as discussed above, under both Amendments C-50 and C-51, party resolutions supported by the members at a national meeting would form the official party policy Declaration. In the case of proposed Amendment C-51, that Declaration would be the unambiguous, sole statement of the party's official policies. Therefore, proposed Amendment **C-53** becomes extremely important in the event that either of Amendments C-50 or C-51 are successful at the 2005 Convention.

It will be recalled that the current Article 13.3 states:

The National Council shall by by-law determine the rules governing the development and maintenance of the permanent policy resource and the process of policy development.”

Proposed Amendment C-53 would add to that sentence. It states:

“It is moved to amend Article 13.3 to add the words:

“provided that at a national meeting, a policy resolution must receive a majority of votes cast by delegates and a majority of votes cast by delegates from each of a majority of individual provinces.”

Thus, proposed Amendment C-53 replaces the current single majority - one member, one vote - and replaces it with a triple majority. If successful, proposed Amendment C-53 would prevent the adoption of a resolution that lacked support across most of the country. Put most succinctly, Amendment C-53 is designed to prevent the CPC from adopting regionalist policies. Among members who think that there is an imbalance in the Canadian federation, Amendment C-53 will find little support. In contrast, proposed Amendment C-53 can be expected to have passionate support from those who are of the view that the CPC needs to dispel the notion that it is or remains a western rump party.

4. ASSOCIATION AND CO-OPERATION WITH PROVINCIAL PARTIES

In several provinces, there exist more than one provincial “conservative” party. For example, in Alberta there is not only the “Progressive Conservative” party, but also the Alberta Alliance party (among others). In Ontario, there is not only the “Progressive Conservative” party, but also the Freedom Party. In a given province, some parties may be conservative only in name (i.e., “big C” conservative), and others may be conservative in reality, but not in name (i.e., “small-C conservative”).

Currently, section 15.1 of the CPC Constitution states:

“The Party shall not establish provincial political parties. The party shall promote and maintain relationships with *existing Progressive Conservative parties.*” (*emphasis added*)

Also, section 7.5.5 of the current CPC Constitution grants the leaders of provincial parties *named* “Progressive Conservative” the entitlement of voting as delegates at a national meeting:

7.5 The following shall be entitled to vote as delegates to a national meeting:

[...]

7.5.5 leaders of provincial Progressive Conservative parties;...”

That entitlement extends even to provincial Progressive Conservative party leaders who are *not members* of the CPC.

In other words, the current constitution entrenches affiliation with big-C “Progressive Conservative” parties, whether or not the *values* of those parties are the same as the values of the CPC. Indeed, under the current Constitution, even if a big-C “Progressive Conservative” party holds *liberal* values (i.e., is a small-I liberal party), the Constitution currently requires affiliation with the provincial Progressive Conservatives. Clearly, given that party-name loyalties on the decline, that some “Conservative” parties hold small-I liberal values, and that there is a greater tendency of the voter and activist to look deeper into matters of actual policy substance, some CPC members are uncomfortable with giving preference to the Progressive Conservative parties in each province. They want a CPC that is free to associate with any (or even all) small-c provincial conservative parties that may best share the values of the CPC. Accordingly, members have proposed two Amendments that give the CPC greater freedom to determine its provincial counterparts.

Proposed Amendment C-54 states:

“The Party shall not establish provincial political parties. The Party shall promote and maintain relationships with *all provincial conservative parties.*” (*emphasis* added)

Proposed Amendment 54 would allow the CPC to associate with any or all small-c provincial conservative parties, regardless of the names of those parties. In other words, it would allow the CPC to “promote and maintain relationships with” such parties as the Alberta Alliance and Freedom Party of Ontario, *et cetera*.

Proposed Amendment C-14 states:

“It is moved to amend Article 7.5.5 to delete the words “Progressive Conservative” and add the words “who are members of the Party”, so that it reads as follows:

7.5.5 Leaders of provincial parties who are members of the Party [i.e., of the CPC]”

Combined, Amendments C-54 and C-14 eliminate the last vestiges of association with the old PC party provincially, and put the CPC on an entirely independent footing. At the same time, those Amendments allow the CPC to forge new alliances with other small-c conservative parties at the provincial level.

SUMMARY

The very existence of the proposed Amendments described above makes it clear that some fundamental issues concerning the nature and direction of the CPC require resolution. Largely, where competing Amendment proposals exist (e.g., C-51 and C-52), they appear to differ according to the traditions of the two founding parties: the Alliance and the PC party. The outcome of the votes on these pivotal Amendments will ultimately determine whether the CPC is more akin to one of the founding parties than to the other. For this reason, it is fully expected that the Amendments described above will be among the most hotly contested at the 2005 Convention. However, perhaps more importantly, the outcome of voting on these pivotal Amendment proposals promise to shape the Canadian political landscape for years to come.

TABLE

It is perhaps easiest to capture the spirit of the Amendments described above by characterizing them according to which of the founding party's traditions they reflect. The Table below, characterizes them accordingly.

Proposed Amendment	Effect	Founding Tradition of the...
C-14	Provincial PC party leaders no longer <i>automatic</i> delegates to CPC Conventions. Instead, any provincial party leader <i>who is a CPC member</i> is a convention delegate.	N/A
C-44	Eliminates 100-points-per-riding system for leadership elections. Replaces it with pure one-member-one-vote system.	Alliance
C-45	Tweaks the 100-points-per-riding system for leadership elections. Instead of 100 points, each riding gets lesser of (a) a number of points equal to the number of voting members in the riding association, or (b) 100 points.	PC
C-50	Members determine what policies comprise the official party policy Declaration. However, election campaign platform merely "developed from" the Declaration: platform possibly will contain policies not adopted by members.	N/A
C-51	Members determine the policies of the party. This Amendment does not permit the election campaign platform to include policies that have not received approval of the membership.	Alliance
C-52	The Leader and his parliamentary caucus develop policy. Policy committee approves between conventions. Those policies "shall" be approved at conventions. Those policies shall comprise the party's official policy Declaration and shall be the party's official policies.	PC
C-53	Requires a double majority (majority of delegates from a majority of provinces) to adopt a resolution at a Convention.	PC
C-54	CPC no longer forced to promote and maintain only provincial parties named "Progressive Conservative". Allows CPC to promote and maintain relationships with any or all provincial small-c conservative parties.	Alliance

ABOUT THE AUTHOR

Paul McKeever is an employment lawyer in private practice in Oshawa, Ontario. He is the author of "Two Birds in Hand, Something Hiding in the Bush" (available at www.paulmckeeper.com) which was a guide for Alliance and PC party members who were about to vote on the merger of those two parties. He has also studied the constitutions of numerous political parties in Canada in the course of developing a constitution for the provincial party that he leads, the Freedom Party of Ontario (www.freedomparty.on.ca).

Paul McKeever founded, owns and operates mondopolitico.com, a non-profit, non-partisan, educational political web site designed to encourage greater involvement and understanding in politics. He has given numerous speeches and has been published in *Wealthy Boomer* magazine and in *Consent*. His letters have been published in the *Toronto Sun* and *National Post* newspapers.

Articles about Paul, his political activities, and his court cases have been published in the *National Post* (Jon Chevreau), the *Globe and Mail* (Murray Campbell), *Toronto Sun* (Christina Blizzard), *Belleville Intelligencer* (Jennifer Bell), *Oshawa This Week* (Martin Derbyshire), *Wealthy Boomer* magazine, the *Lawyer's Weekly*, and *CA Magazine* (the official magazine of chartered accountants in Canada). Paul has made numerous television and radio appearances, including appearances on *Michael Coren Live!*, *Rhonda London Live*, *On the Line* (CTS), *CFTO TV News* (Matet Nebres, CTV), *Jim Chapman Live* (Rogers), *CBC Television* (Ontario elections 1999 and 2003), *Rogers Community Television* (Ontario elections 1999 and 2003), *Studio 2* (TV Ontario, with Steve Paikin), *Here and Now* (CBC Radio 1, with Avril Benoit), *The Christina Cherneskey Show* (CFRB radio, Toronto), *Warren on the Weekend* (CKNW radio, Vancouver), *Talk of the Town* (CJBK, London, with Jim Chapman) and more.

Happily married, Paul is the proud father of two young children. Actually, three, if you include his labrador retriever.

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