

# The eleventh hour

Prime Minister Trudeau, Jean Chrétien and other federal officials began a meeting on 2 November 1981 with provincial premiers in a final attempt to reach a compromise. Mr. Trudeau had been anxious to reserve a right of veto for Quebec and Ontario over subsequent constitutional amendments. Ontario Premier Bill Davis agreed to relinquish this right on behalf of his province if other provinces would make concessions regarding the charter of rights. Since the Quebec government had already endorsed the new amending formula proposed by the seven other dissenting provinces, which also, in effect, eliminated veto powers for any single province, the Prime Minister accepted these provinces' 'Vancouver' formula. The original federal formula had also included provision for the federal government, when it could not obtain the agreement of a majority of the provinces to an amendment, to resort to a national referendum, which could override provincial opposition. This provision was dropped, however, because provincial premiers contended it would diminish their powers in a way contrary to the spirit of federalism.

The eight dissenting provinces were all individually against one or more provisions of the proposed charter of rights. These rights, they argued, already existed as they do in Britain without the need for a charter, based as they are on the vast body of British common law heritage dating back to the Magna Carta and Habeas Corpus. The provinces feared that if these rights were codified in a federal charter the result,

however unintended, would be to give new powers to federally appointed judges at the expense of provincial courts and administrations.

The federal government, however, was anxious to have uniformity of rights throughout the country, and in particular to eliminate the discriminatory decisions against non-residents imposed by a number of provinces. Examples included prohibitions against workers from outside a province accepting employment in certain fields; discriminatory taxes or prohibitions on investments or land ownership by citizens of other provinces, non-tariff trade barriers between provinces and the like. One by one compromise was obtained in each of these differences.

A number of provinces were also opposed to any declaration of equal rights for women, believing that such rights should be introduced gradually to avoid economic disruption. Other provinces were opposed to any statement of rights for aboriginal peoples, fearing that Canadian Indians would press claims for many lands which, subsequent to former claim settlements, had been discovered to be mineral or oil-rich. The federal side reluctantly agreed to drop provisions for women's and native peoples' rights, but such strong pressure was subsequently brought to bear on provincial leaders that within days these leaders had agreed to the reinsertion of both provisions, limited only by an insistence that only existing aboriginal rights be recognised.



The final Federal-Provincial patriation conference.