

Why a Quebec Round?

The issues under discussion in the present constitutional debate go back many years. Quebec's distinct society can be traced to the *Quebec Act* of 1774, nearly a hundred years before Confederation; discussion of Senate reform began in 1867 and has been going on ever since. The debate between supporters of greater provincial autonomy and those who believe in a more centralized federation has also been going on since 1867. And there are other issues: the quest of the aboriginal people for recognition; gender equality; the place for Canadians of multicultural heritage in the definition of the fundamental character of the country; and the impact of the *Canadian Charter of Rights and Freedoms* on our traditional approach to civil liberties.

The present round of constitutional discussion must be understood in the context of what happened in the province of Quebec on May 20, 1980. A referendum was held on the question of whether the Quebec government should be given a mandate to negotiate sovereignty association. During the referendum debate the people of Quebec were promised constitutional reform if they voted NO. The federal victory was widely celebrated across Canada and led to constitutional discussions between Ottawa and the provinces over the precise nature of the changes.

The culmination of this process was the patriation of the Canadian Constitution from Westminster in 1982 and adoption of the *Canadian Charter of Rights and Freedoms* and of a new amending formula. After extensive debate, every province except Quebec endorsed the 1982 constitutional change. Quebec did not agree with the process and maintained that substantial changes to the Canadian Constitution had been made without its consent. As a result, Quebec refused to participate in constitutional conferences except as an observer and would not vote on amendments such as those dealing with the rights of the aboriginal people.

This position has no legal effect since the Constitution was patriated legally and the *Constitution Act, 1982* applies to Quebec despite its disagreement. But the political consequences are very real.

Following the 1985 election a new government took office in Quebec. In contrast to the twenty-two conditions of its predecessor it agreed to support the constitutional reform of 1982 if five conditions could be accommodated in its place. These were:

- (i) explicit recognition of Quebec as a distinct society;
- (ii) guarantee of increased powers in matters of immigration;
- (iii) limitation of the federal spending power;
- (iv) recognition of a right of veto;
- (v) Quebec participation in appointing judges to the Supreme Court of Canada.