The treaty-making process also provided a direct government-to-government link between the Crown and Indian peoples. This, in the Indian view, was confirmed by the setting aside of "Indians, and Lands reserved for the Indians" in a unique manner when the *British North America Act* was passed in 1867. They therefore viewed the passage of sucessive *Indian Acts* as a misinterpretation of federal authority. Instead of continuing to enter into agreements with Indian nations, the federal government legislated over them and imposed restrictions on them.

Witnesses asserted that the treaty-making process could be revived, and that the federal government and Indian First Nations could make all necessary arrangements by agreement. Therefore the bilateral process was seen by some as the preferred route to self-government. No legislation and no further constitutional change would be required to proceed in this manner.

Certainly, the federal government continued to use the treaty process until well after World War II. For example, it accepted adhesions to Treaty 6 in 1950, 1954 and 1956. Treaty-making also implies recognition of Indian political structures. One drawback to relying on the treaty-making process, however, is that the courts, at least in earlier judgements, usually described the treaties as 'contracts' and not as the equivalent of legislative or constitutional documents.

Parliament has not attempted to exercise the full range of its powers under section 91(24), which sets apart "Indians, and Lands reserved for the Indians". Consequently, the limits of these powers have not been established. In the past, Parliament has, through the *Indian Act*, legislated in a manner that has regarded Indian communities as less than municipalities. On the few occasions where it has legislated in a more wide-ranging manner—for example, with respect to liquor, which is a provincial responsibility when not related to Indians—the courts have upheld the exercise of its powers.

The recognition and affirmation of "existing aboriginal and treaty rights" of Indian peoples in Section 35 of the *Constitution Act, 1982* changed the constitutional position of Indian First Nations, but the implications of the change are not yet clear. The affirmation of the special relationship and the reference to a bilateral process in the 1983 Constitutional Accord are further important developments in relations between Indian First Nations and Canada.

3. While the Committee has concluded that the surest way to lasting change is through constitutional amendments, it encourages both the federal government and Indian First Nations to pursue all processes leading to the implementation of self-government, including the bilateral process.

Legislative Action

In its Order of Reference, the Committee was asked particularly to consider "legislative and administrative change". The Committee gave careful consideration to legislation as an interim solution that would permit speedy action and might enhance the prospect for eventual constitutional change.