

Section 1 of the Charter itself provides some leeway for Parliament and the legislatures. It says that the rights the Charter guarantees are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." The courts will decide the meaning of "reasonable" and "demonstrably justified" and "a free and democratic society." Their decisions may leave Parliament and the legislatures with most of the powers they had before the Charter came into effect; or they may narrowly restrict many of those powers. It may take some years to find out.

The Charter also contains a provision that Parliament, or a provincial legislature, can override some important parts of the Charter by inserting in an act that would otherwise violate those provisions, a plain declaration that the act shall operate "notwithstanding" the Charter. Such an act is limited to five years, but can be extended for renewed periods of five years. This could allow a partial restoration of the sovereignty of Parliament and the provincial legislatures.

Control over natural resources

The fourth big change made by the *Constitution Act, 1982*, gives the provinces wide powers over their natural resources. Each province will now be able to control the export, to any other part of Canada, of the primary production from its mines, oil wells, gas wells, forests and electric power plants, provided it does not discriminate against other parts of Canada in prices or supplies. But the national Parliament will still be able to legislate on these matters, and if provincial and federal laws conflict, the federal will prevail. The provinces will also be able to levy indirect taxes on their mines, oil wells, gas wells, forests and electric power plants and primary production from these sources. But such taxes must be the same for products exported to other parts of Canada and products not so exported.

All these changes, especially the amending formulas and the Charter, are immensely important. But they leave the main structure of government, and almost the whole of the division of powers between the national Parliament and the provincial legislatures, just what they were before.

Incidentally, they leave the provincial legislatures the power to confiscate the property of any individual or corporation and give it to someone else, with not a penny of compensation to the original owner. In two cases, Ontario and Nova Scotia did just that, and the Ontario Court of Appeal ruled: "The prohibition 'Thou shalt not steal' has no legal force upon the sovereign body. And there would be no necessity for compensation to be given."