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## *Turning the Page on a Decade of Constitutional Turmoil*

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In the October 26, 1992 referendum a majority of Canadians in both Quebec and the rest of the country voted against a package of constitutional proposals worked out by the First Ministers and representatives of four aboriginal associations. Given Canadian history we can count on future constitutional discussions at some time in the future but the October 26 vote marks an end to a decade old debate.

The Government and National Assembly of Quebec have steadfastly objected to the *Canada Act 1982* which includes a Charter of Rights and a new procedure for amending the constitution. Quebec argued that it would only accept these changes in return for certain other guarantees. Both Brian Mulroney in 1984 and Robert Bourassa in 1985 were elected, in part, to find a compromise acceptable to Quebec.

In 1987 after several meetings of officials a number of amendments were agreed to by the First Ministers. Under the 1982 amending formula amendments must be ratified by the legislatures and before long the Meech Lake Accord was under attack both for the absence of consultation that preceded it and the refusal of governments to consider changes to the substance. While many legislatures proceeded with ratification, elections were held in several provinces. In three cases the government was defeated and the new Premiers pressed for changes to the Accord.

In April 1990 a Special Committee chaired by Jean Charest was established to consider a compromise proposed by the Premier of New Brunswick. Shortly after its report was presented the First Ministers met to consider ways to resolve the impasse. A conditional agreement was signed and New Brunswick proceeded to ratify the Accord. In Manitoba the minority Conservative Government was unable to get unanimous agreement to proceed with ratification before the June 23, 1990 deadline. Debate in the Newfoundland House of Assembly was also adjourned without a vote.

Following the demise of the Meech Lake Accord Premier Bourassa announced he would not participate in any further multilateral constitutional negotiations. He established a committee on the political and constitutional future of Quebec which recommended that a referendum be held no later than the fall of 1992 on either independence or on any new offers brought forth by the other First Ministers. It also proposed a creation of two committees, one to examine possible offers and the other to look into the consequences of sovereignty for Quebec.

The federal government responded to the defeat of the Meech Lake Accord with a discussion paper on constitutional reform, a Special Joint Committee on Constitutional Amendments (Beaudoin-Edwards), a Citizens Forum on the Constitution

(chaired by Keith Spicer) and appointment of a new Minister, Joe Clark, with special responsibility for constitutional affairs.

In September 1991 the federal government tabled proposals for constitutional reform which were referred to another special committee, this one chaired by Dorothy Dobbie and Claude Castonguay (later replaced by Gérard Beaudoin). The Committee reported on February 28, 1992 after hearing numerous witnesses and taking into account the proceedings of five special constitutional conferences organized in January and February.

Constitutional committees were also established in every province and in some cases there were also provincial constitutional conferences. From March to July 1992 a series of meetings by federal and provincial ministers as well as aboriginal representatives resulted in an agreement on a new constitutional package on July 7, 1992. The government of Quebec, which had still not participated in the multilateral negotiations, rejected this agreement but accepted it as the basis for returning to the discussions. As a result in August a new Accord was negotiated by all leaders who also agreed to put the proposals to a referendum.

No one can foresee the future but if there is a constitutional debate in the next decade it will likely be very different in nature. Instead of debating endlessly what happened in 1982 or who is to blame or what kind of reparations must be made, perhaps we will recognize that we cannot change history. If the question is whether French and English want to continue living together in the present constitutional structure then that should be the debate. If the issue is whether particular institutions and processes can be made to work better then specific amendments should be put forth by those who believe they have a better solution. Unless and until Canadians learn some lessons from the last decade we appear destined to chase our constitutional tails.

The intricacies of Canada's constitutional debate have been the subject of articles and interviews in the *Review* by legislators and former legislators such as Robert Bourassa, Clyde Wells, Jacques Parizeau, Jean Charest, James Horsman, Senator Arthur Tremblay, John Fraser, Ronald Duhamel, Richard Nerysoo, Glen Clark, Arthur Donahoe, Claude Dauphin, Guy Bélanger, Keith Goulet, and Allan Blakeney, as well as by some non elected experts including John Holtby, F.L. Morton, Errol Mendes, Alan Cairns, Christopher Dunn, Henry Srebrnik, and others.

To turn the page on this decade of constitutional turmoil we present an assessment of the October 26 referendum by three academic observers of constitutional politics, Pierre Coulombe, Roger Gibbins and David Thomas.

The Editor