

Constitution and Discord

In the 1970s, the October Crisis and the election of the Parti Québécois (PQ) made it clear that the threat of Québec separatism was very real. Concerns about separatism contributed to Prime Minister Trudeau's determination to **patriate** Canada's Constitution. He hoped that a "made in Canada" Constitution would make Québécois feel more comfortable about their position. Québec discontent and the Constitution continued to define Canadian affairs well into the 1990s. Twice during this time, PQ governments tried and failed to win referenda that would have separated Québec from the rest of Canada.

The 1980 Referendum

In 1980, the PQ government of René Lévesque called a referendum on Québec sovereignty. Lévesque asked Québécois to give his government a mandate to negotiate a new agreement with Canada based on what he called **sovereignty-association**. Québec would become politically independent, or "*maîtres chez nous*," yet maintain a close economic association with Canada. This partnership would include

- free trade between Canada and Québec
- a common currency for the two nations
- common tariffs against imported goods

Prime Minister Trudeau asked Québec to remain part of a strong, united, and forward-looking Canada. He promised to negotiate a new Constitution, which proved popular among Québécois who wanted a Constitution that recognized Québec as an equal partner in Confederation and as a **distinct society** within Canada.

In the referendum, only 40 percent of Québécois voted "yes" to sovereignty-association. Lévesque accepted defeat but promised that, one day, they would realize their dream of a sovereign Québec.

KEY TERMS

patriate to take control of power over a document from a former colonial government

sovereignty-association a proposal by Québec nationalists that Québec have political independence yet retain close economic ties or association with Canada

distinct society a phrase that refers to the recognition of the unique nature of Québec within Canada; it often has the sense that Québec should have special powers and privileges to protect its language and culture

- What was the impact of Québec nationalism on Canadian unity?

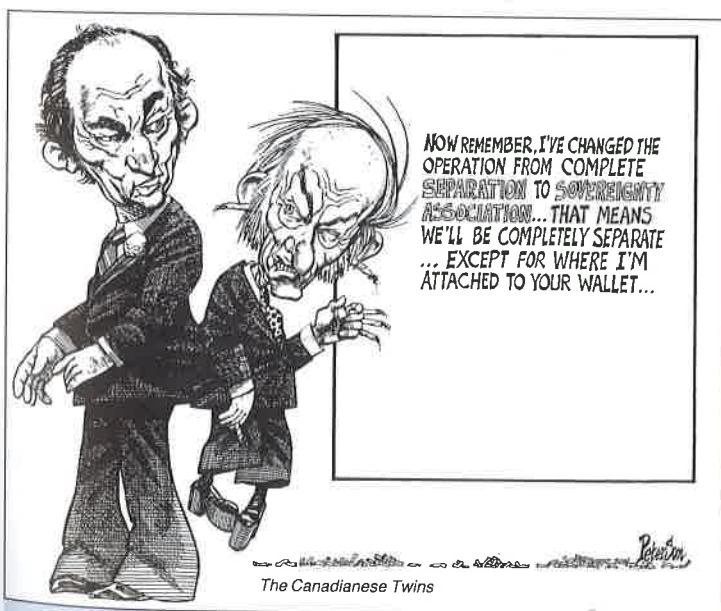


FIGURE 8-18 This cartoon showing Prime Minister Trudeau and Premier Lévesque offers one view of sovereignty-association.

Interpreting a Cartoon

According to the cartoonist, how did sovereignty-association differ from separation? What was this cartoonist's view of Lévesque? How do you know?

● What factors contributed to Canada's emerging autonomy?

● How did changes to the Constitution impact Canadian society?

KEY TERMS

amending formula a process by which changes can legally be made to the Canadian Constitution

notwithstanding clause a clause in the Canadian Constitution (Section 33[1]) that enables Parliament or the legislature of a province to allow an Act to stand even though it contravenes the Charter of Rights and Freedoms

WEB LINK

Visit the Pearson Web site to find out more about the Constitution debates.

Patriating the Constitution

The British North America (BNA) Act had been Canada's Constitution since 1867. The Act set out the powers of the federal and provincial governments and guaranteed the language and education rights of Québec's Francophone majority. Since the BNA Act fell under British jurisdiction, no changes could be made without the British Parliament's approval.

Amending the Constitution

Prime Minister Trudeau wanted to patriate the Constitution so that the Canadian government would have sole authority to make changes to it. Trudeau hoped, above all, to include in the Constitution a clear statement of the basic rights to which all Canadians were entitled. You will read more about the Charter of Rights and Freedoms in Chapter 10.

As a first step, Trudeau needed to come up with a formula for amending, or making changes to, the Constitution. Questions such as the following needed to be considered: How many provinces need to be in agreement to make a change to the Constitution? Should Québec, as the Francophone partner in Confederation, be given veto power? Getting both the federal and provincial governments to agree to an **amending formula** was difficult.

While Québec pushed for more power, the Western provinces saw patriating the Constitution as a way to have more say in affairs that affected them. Most of the provincial premiers outside of Québec felt that the Charter would make the courts more powerful than provincial legislatures. In Québec, Lévesque feared that the Charter could be used to override his language laws or any other legislation that might be passed to protect Québec's distinct society.

A series of meetings failed to resolve the concerns that divided the provinces and the federal government. In a final attempt to reach an agreement, the prime minister and the premiers met in Ottawa on November 4, 1981. Over late-night cups of coffee in the kitchen of the National Conference Centre, federal Justice Minister Jean Chrétien and the justice ministers from Saskatchewan and Ontario hammered out what came to be called the "Kitchen Accord." The provincial premiers were awakened in their rooms at the Château Laurier Hotel and asked to approve the deal.

Including a Notwithstanding Clause

The premiers agreed to accept the Charter if an escape clause were added. This was the **notwithstanding clause**, which allowed the federal government or any of the provinces to opt out of some of the clauses in the Charter. An agreement on the amending formula was also reached. Changes to the Constitution could be made only with the agreement of "seven out of ten provinces representing 50 percent of Canada's population." This meant, in effect, that Québec could be excluded as long as Ontario was included.

René Lévesque argued against the deal but Trudeau accepted the compromise. He maintained that the federal government had so many members from Québec that it could speak for that province. Lévesque and the people of Québec felt that the federal government and the other provincial premiers had ganged up to deny Québec recognition of its distinct status. The Québec provincial government refused to sign the proposed Constitution.

Trudeau went ahead without Québec's agreement. On April 17, 1982, Queen Elizabeth II and Prime Minister Trudeau signed the new Constitution Act into law. As the rest of Canada celebrated, flags in Québec flew at half-mast and Premier Lévesque led an angry demonstration through the streets of Québec City. The last step toward making Canada a completely independent nation had been taken, but the process had revealed cracks in national unity that would continue to trouble Canadians in the years that followed.

Trudeau Steps Down

Trudeau's dream of a Canadian Constitution had become a reality. He felt he had played his part and was growing tired of politics. On February 28, 1984, he left his official residence at 24 Sussex Drive in Ottawa for a walk through the snowy streets of the capital. It was then that he decided to retire from politics. The Trudeau era had come to an end.

John Turner, who had served in the Cabinet under both Pearson and Trudeau, won the leadership of the Liberals. He called an election soon after, and the Liberals suffered a disastrous defeat to Brian Mulroney's Progressive Conservatives, winning only 40 seats in the House of Commons. When the Liberals under Turner lost the next election as well, Turner resigned his position and was replaced by Jean Chrétien.



FIGURE 8-19 Queen Elizabeth II arrives to sign Canada's Constitution Act, April 17, 1982.

Thinking Critically Why would the Canadian government want to have the Queen sign the Act in Canada?

- What was the impact of Québec nationalism on Canadian unity?

KEY TERMS

Meech Lake Accord a package of constitutional amendments that would define Québec as a distinct society within Canada

Bloc Québécois a federal party dedicated to Québec separation from Canada

Mulroney and the Constitution

By 1984, most Canadians outside Québec felt that the issues of the Constitution and Canadian unity had been settled. Yet, when John Turner called an election later that year, Brian Mulroney, the leader of the Progressive Conservatives, returned to the issue of the Constitution. To build support from separatists in Québec during the election campaign, Mulroney promised to repair the damage of 1982 by obtaining Québec's consent to the Constitution "with honour and enthusiasm."

Once elected, Mulroney looked for an opportunity to make good on his promise. The time seemed right when René Lévesque retired and the pro-federalist Liberal Party, led by Robert Bourassa, took office in Québec. Mulroney's first priority was to negotiate an agreement to have Québec sign the Constitution. But by then, other provinces had their own demands. For example, Newfoundland and Alberta wanted more control of their resources—Newfoundland of its fisheries, and Alberta of its oil industries. As well, both Alberta and Newfoundland demanded reforms to the Senate that would give them a stronger voice in Ottawa.

Western alienation, which had grown through the oil crisis of the 1970s, had come to a head once again over a government contract to repair air force jets. Ottawa awarded the multibillion-dollar contract to the Bombardier company of Montréal, even though Bristol Aerospace of Winnipeg had made a better proposal. Westerners were convinced that the contract went to Bombardier just to "buy" Conservative votes in Québec.

WEB LINK

To learn more about these constitutional debates, visit the Pearson Web site.



FIGURE 8-20 Some critics thought Mulroney had made a mistake in reopening the Constitution debate.

Interpreting a Cartoon What point of view about Mulroney and the Meech Lake Accord is this cartoonist expressing? Do you find the cartoon effective? Explain.

The Meech Lake Accord

Prime Minister Mulroney called the premiers to a conference to discuss the Constitution at Meech Lake, Québec, in 1987. He proposed a package of amendments that included an offer to recognize Québec as a distinct society. The package also included giving more power to the other provinces. All provinces, for example, would have the power to veto constitutional change. In a radio discussion, Premier Bourassa announced Québec's support for the accord:

History will say... that [the] Meech Lake Accord was a unique chance for Canada. If it is accepted Canada will be and could be a great country. If it is rejected, it is hard to predict what will be the future.

—Robert Bourassa

TIMELINE

Québec Nationalism

1960

Jean Lesage elected premier; Quiet Revolution begins

1963

Royal Commission on Bilingualism and Biculturalism

1968

Founding of Parti Québécois

1969

Official Languages Act

1970

October Crisis

1974

Bill 22

However, the accord had many critics. Former Prime Minister Pierre Trudeau argued that the designation of Québec as a distinct society would create “two solitudes” in Canada. It would, he said, simply isolate the Francophones of Québec and make them less, rather than more, a part of Confederation. Many Québécois, on the other hand, saw this clause as a way of protecting French culture and language. Other critics also focused on the “distinct society” clause. They worried that it might be used in Québec to override the Charter and deprive specific groups of their rights. Aboriginal peoples pointed out that they too had a distinct society that needed to be recognized and protected. Others argued that Canadians had not been given enough opportunity to have their say on the issue.

Two provinces, Manitoba and Newfoundland, withheld their support from the Meech Lake Accord, and it died in June 1990. The failure of the accord was seen as a rejection of Québec itself, even a “humiliation.” Support in Québec for separation had soared to 64 percent. Lucien Bouchard, a powerful Québec member of Mulroney’s Cabinet, resigned in protest and formed a new national party, the **Bloc Québécois**. The Bloc would run in federal elections but it remained committed to Québec separation.

The Charlottetown Accord

Prime Minister Mulroney was not willing to let the Constitution debate end. He appointed a “Citizens’ Forum,” a committee that travelled across the nation to hear the views of Canadians on the Constitution. Eventually, Mulroney and provincial premiers proposed a package of constitutional amendments called the Charlottetown Accord. It answered Québec’s concerns in ways similar to the Meech Lake Accord, but it also advocated the principle of Aboriginal self-government. In addition, the Charlottetown Accord proposed reforming the Senate. In response to pressure from the Western provinces, the Senate would become an elected body with equal representation from all parts of the country.

The Charlottetown Accord was put to a national referendum in October 1992. Although Mulroney warned that rejection of the accord would endanger the very future of the nation, 54.3 percent of Canadian voters rejected it. The greatest opposition came from British Columbia, where 68.3 percent voted “no.” B.C. voters felt that the accord gave Québec too much power and they objected to the guarantee that Québec would always have 25 percent of the seats in the House of Commons, regardless of the size of its population. Many voters in Québec, on the other hand, believed that the Charlottetown Accord did not give them enough power because most of the Senate seats would go to the West. They also objected to Aboriginal self-government because it would affect a large portion of northern Québec.



FIGURE 8-21 Elijah Harper, a Cree member of the Manitoba legislature, opposed the Meech Lake Accord because it did not recognize Canada’s Aboriginal nations as a distinct society.

How did Aboriginal Canadians respond to challenges in the late 20th century?

1976
Parti Québécois
under René
Lévesque elected

1977
Bill 101

1980
Referendum on
sovereignty-
association

1982
René Lévesque
rejects the
Constitution

1991
Founding of the
Bloc Québécois

1995
Referendum on
separation



FIGURE 8-22 In 1995, people came to Québec from across Canada to tell the people of Québec that they wanted them to stay in Canada.

Using Evidence How does this photograph demonstrate support for the “no” side? How does a symbol such as the Canadian flag play a part in national events such as the referendum campaign?

Referendum of 1995 and After

Perhaps angered by events in the Constitution debates, Québécois again elected the separatist Parti Québécois in 1994. In 1995, Premier Jacques Parizeau called a provincial referendum on full sovereignty. The “yes” forces reminded Québécois of their “humiliation” in the rejection of the Meech Lake Accord. On October 30, 1995, the nation held its breath as the referendum votes were counted. The results: 49.4 percent of the people of Québec had voted “yes” to sovereignty. The close vote shocked Canadians.

The threat of separatism lessened somewhat in the following years. Lucien Bouchard, who became Québec’s premier in 1996, talked periodically of a new referendum, and the federal government under Prime Minister Jean Chrétien prepared guidelines for any future vote, stressing that the costs of sovereignty would be high for Québécois. Chrétien also sent the question of how Québec might separate to the Supreme Court of Canada and followed up on the Court’s ruling with his controversial **Clarity Act**. This set down in law, for the first time, Ottawa’s insistence on a clear question in any future referendum. Also, Ottawa would only negotiate Québec separation if a substantial majority of Québécois voted for it.

As the century closed, support for separatism appeared to decline. Liberal gains in Québec in the 2000 federal election and the resignation of Premier Bouchard seemed to support Chrétien’s tough stand on separation.

Chrétien to Martin to Harper

In 2002, Jean Chrétien announced that he would not seek a fourth term as prime minister. In 2003, the new leader of Canada’s Liberal Party, former finance minister Paul Martin, became prime minister. Martin called an election and the Liberal Party won, although it lost its majority.

In 2005, a scandal involving the misappropriation of government funds by the Chrétien government threatened the stability of the Martin government. Martin himself was not involved in the scandal, but Canadians had lost confidence in the Liberal Party. In the 2006 election, the Conservatives won 36 percent of the vote and Stephen Harper became prime minister.

PRACTICE QUESTIONS

1. Would you describe Lévesque’s plan for sovereignty-association as a plan for separation from Canada? Why or why not?
2. Why was it difficult to patriate the Constitution?
3. Why do you think that it was so difficult for the provinces and the federal government to agree about the Constitution?
4. Do you think Lévesque was betrayed by the Kitchen Accord? Why or why not?
5. Why did Brian Mulroney reopen the Constitution debate? Why did the Meech Lake Accord fail? Why did the Charlottetown Accord fail?
6. How did the Québec referendum of 1995 differ from that of 1980?
7. Why did the results of the 1995 Québec referendum shock Canadians? What action did the federal government take?
8. **Cause and Consequence** How might the rest of Canada have changed if the 1995 referendum had passed?