

# Introduction

This year marks the 150<sup>th</sup> anniversary of the creation of Canada. It also marks the 35<sup>th</sup> anniversary of the patriation of the Constitution from Great Britain that completed the process of creating a sovereign state. Much has been written about the Constitution of Canada and, in particular, the events leading up to patriation in 1982. Indeed, there are several excellent books on the negotiations which led to our final constitutional disentanglement from Great Britain. Hundreds of articles have also been written on the impact of this event. Is there anything more to be written? Are there events as yet uncovered and unknown about the players and events of the period from 1980 to 1982? The answer is, quite simply, “yes.”

This special issue of the *Constitutional Forum* publishes, for the first time, several articles and documents which have hitherto not been available or discussed in detail. In particular, it examines several events occurring between October 1980 and October 1981 from new perspectives. These perspectives come from participants who were either less well-known or not perceived to have been central or critical to the direction of negotiations during this period of time. The articles in this special issue collectively argue that these “other” participants were important in their own right, and the shape of patriation — if it had occurred at all — would have been considerably different had these individuals not been involved.

The first article, “Round One: Saskatchewan-Canada Negotiations”, examines the period immediately after the First Ministers Conference on the Constitution in September of 1980. Shortly after that conference failed to achieve its objectives, Prime Minister Trudeau announced that he would be going to Great Britain with a

package of constitutional changes that would patriate the Constitution to Canada. During a crucial period in early October of 1980, the parties in the House of Commons, and the governments of the provinces, grew divided on the basis of being for or against unilateral action by the federal government. For the Trudeau initiative to succeed, it was critical that he have support from at least one other party in the House of Commons and at least one provincial government in all regions of the country. Unfortunately, the Liberal party was very weak in Western Canada. By contrast, the New Democratic Party of Canada (NDP) had a large number of MPs from the region; and, the government of Saskatchewan was headed by Allan Blakeney, a New Democrat. The federal government calculated that, if the initiative was to succeed, they would require the support of both the Government of Saskatchewan and the federal NDP.

In the early days after Trudeau’s announcement of his intentions for the Constitution, the Prime Minister received fortunate news: the head of the New Democratic Party of Canada, Ed Broadbent, stated that he could support the initiative if some specific changes were made to the package of proposals. There remained only to bring the government of Saskatchewan on board. In early October, after telephone calls between Premier Blakeney and Prime Minister Trudeau, talks were initiated in Ottawa between Jean Chretien, Minister of Justice for the federal government, and Roy Romanow, Minister of Intergovernmental Affairs for the government of Saskatchewan. As it turned out, the failure of these talks proved to be critical to the momentum of the project. This article draws upon my private notes and papers to provide a full account of these important negotiations. In particular, this article and its archival sources outline in

detail why the talks failed. The result was that the whole process of patriation became increasingly problematic and delayed.

The second article, “NDP Negotiations on Patriation”, deals with many of the same participants who were involved in the October negotiations. The failure of the government of Saskatchewan to agree with the federal government on its patriation project meant that the federal NDP was split on the issue. On one side, the federal NDP, together with some of the provincial sections, supported the federal government initiative. On the other side, the NDP government of Saskatchewan, and some other provincial sections, were in opposition. What started out as a minor disagreement grew into a full-fledged rupture. In February of 1981, in a secret meeting at a hotel in Calgary, the leaders of the NDP in Manitoba, Saskatchewan, and Alberta met with the federal leader of the party, Ed Broadbent, to try and find some common ground that would bring the various sections of the party back together. The meeting was a failure. The result was a party that suffered internal disarray and bad feelings for several years after these events.

The NDP Negotiations on Patriation article provides a transcript of these detailed discussions. It is based on the handwritten notes that I took at the time. They provide detail on the various positions and arguments of the participants, illustrating how and why the sections of the party became so estranged from one another over this issue. None of this material has been made public until now, and the supporting documents are included in this issue.

The third article, “Beginning of the End of the Gang of Eight”, deals with a group that has become known as the “Gang of Eight”, consisting of the Ministers of Justice and Intergovernmental Affairs for the eight provinces that were opposing the federal initiative. These ministers took part in a meeting in June of 1981 that is now largely unknown or forgotten. This meeting took place after the eight First Ministers had gathered in Ottawa to sign a document called the Ottawa Accord, an alternative to the Trudeau government’s patriation package. The meeting among First Ministers, although it resulted

in an agreement, had not gone well. The initial package had been bargained and agreed to prior to the re-election of the Parti Québécois government headed by René Lévesque. After his re-election, the Premier of Québec was adamant that changes to the package must be made. In short, given his new political mandate, Premier Lévesque thought that he had considerably more leverage in these negotiations and could force the other seven provinces to make some significant changes to the agreement. He was successful, but it led many of the provincial governments to wonder if perhaps they were simply being used by the separatist government in Québec.

Therefore, in June of 1981, Ministers of Intergovernmental Affairs met in Winnipeg to further discuss strategies and actions prior to the judgment of the Supreme Court on the constitutionality of the federal initiative. This judgment was expected to come during the summer. While such a ministerial discussion was not expected to be crucial, it turned out that the attitude of Claude Morin, Minister of Intergovernmental Affairs for Québec, was instrumental in changing the attitudes of the other seven provinces about the usefulness and wisdom of remaining in partnership with the government of Québec. His misunderstanding of the goals and objectives of the other seven members of the Gang of Eight, and his failure to understand that these objectives were different than those of Québec proved fatal to his strategy of confrontation with the federal Liberals. In short, this meeting was crucial in developing a sense of ownership of the project among those seven provincial governments that were in opposition and eventually among the nine provinces that came together to finally agree with the federal government on the patriation package.

The article contains minutes and documents which have never been made public. It relies on the handwritten notes I took during the meeting as well as the subsequent briefing notes which were provided for the government of Saskatchewan. In my opinion, this was a watershed meeting in the whole patriation process.

The last article, “The Four Lenses of Patriation”, is interpretive rather than descriptive. It

deals specifically with how historians, academics, policy-makers, and the general public have come to view patriation. It suggests that there are four lenses through which it can be viewed. These lenses depend on our view of the outcomes and the participants in the project.

The first lens, described as the federalist lens, views the patriation project as a largely triumphant federalist project which, I suggest, brought us a broader and more inclusive pan-Canadian identity, involving mainly the *Charter of Rights and Freedoms* and the patriation of the Constitution to Canada.

The second lens views patriation as a betrayal of the founding compact between the English and French peoples of Canada, a unilateral action by the English-speaking peoples of Canada that has significantly diminished the role of the government of Québec and the Francophone population of Canada. For large numbers of Quebecers, it remains an unfinished project referred to colloquially as “The Night of the Long Knives.”

A lesser-known third lens involves individuals and groups that, prior to patriation, had been largely powerless in our society. As I argue in the article, this interpretation views patriation as, “the last gasp of a society dominated by privileged white men, seeking to maintain their own power and exclude rising groups of women, indigenous

peoples, immigrants, as well as people who were excluded because of sexual orientation, race, and economic disenfranchisement.” Through this lens, patriation is viewed as a beginning, albeit a flawed one, which has led to some gains by the less powerful groups within our society.

Finally, a fourth lens considers patriation from an entirely different point of view. It proposes that the constitutional settlement that was ultimately accepted was largely an initiative of the nine provincial governments, achieved mainly through the work of the governments of Ontario, Alberta, and Saskatchewan. More importantly, it asserts that without their efforts there would never have been an agreement and that the forces of dissolution in Canada would have continued to gather steam. In other words, the provinces saved Canada from Trudeau and Lévesque.

Finally, this special issue contains two supporting documents that are annotated notes I took in the meetings referred to in these special issue articles. Some of these have been made public in the past, but are nonetheless fascinating, and some have never before been made public and should be interesting to those who study in this area.

As stated at the outset, I hope that you will find this special issue interesting and informative, and I hope that it will shed yet more light on the constitutional history of Canada.

