

In late April of this year, Canada's federal and provincial leaders met in Meech Lake, Quebec, to deliberate on an accord that would finally allow Quebec to participate fully in our Constitution.

When Pierre Trudeau brought the Constitution home from Britain in 1982, the significance of the event was somewhat tarnished when Quebec refrained from signing the document. This failure was particularly embarrassing considering that, in the provincial referendum of 1980, the province rejected the idea of sovereignty association or separation from Canada. With the defeat of the Parti Quebecois in 1985, it had seemed that Quebec did, indeed, want to remain a part of Canada.

The Meech Lake Accord has established the parameters for six Constitutional amendments. The changes give Quebec special powers in addition to providing the provinces with a variety of concessions at the expense of the federal government.

A variety of special interest groups and prominent Canadian citizens have raised a number of objections about the Accord. Prime Minister Mulroney and the First Ministers, however, are determined to institute the agreement without further changes. The following is the first in a two-part series examining the debate over Meech Lake. This week *Excalibur's* Deborah Dundas and Jeff Shinder focus on the long-term economic ramifications of the Accord. In one interview, Alan Shapiro, Associate Professor of Economics at York University, outlines the debilitating effects which he believes the Accord will have on the Canadian economy, because of the resulting growth in provincial power. In opposition, Tom Courchene, Professor of Economics at the University of Western Ontario and this year's appointed Chair at the Robarts Centre for Canadian Studies argues that the Accord formalizes certain trends in Canadian society which have been taking place for some time.

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Excalibur: With respect to the provisions in the Accord that grant the provinces the power to submit suggested candidates to the Senate: should there not be a mechanism in place to mediate in a hypothetical situation where the federal government refuses the provincial nominees?

Courchene: Well if that occurs, we won't have senators for a while. I think that kind of situation is more an issue for the Supreme Court nominees, particularly with respect to Quebec. If there is an impasse there will have to be some compromise, ours is a nation of compromises. The latest Supreme Court nomination from Quebec, I think it was Gerard Lafnet, went through exactly the process that Meech Lake talks about—and it worked. We might have to find some mechanisms, but I'd rather not have the mechanism put in the constitution. The mechanism should be developed over time like we develop all other institutions.

Excalibur: The section of the accord dealing with the definition of Quebec as a distinct society includes a clause empowering the Quebec National Assembly with the power to "preserve and promote" this identity. Do you feel that this could in the long-term become a prescription for Quebec's movement towards independence?

Courchene: Well, the reason Quebec is so exercised about being defined as a distinct society is because the Charter is undermining some of its collective rights. The distinct society clause will give Quebec some power in terms of maintaining some of the things it had on the socio-economic front. I view it solely as a defensive power, not an aggressive power. It could not be used, as some critics suggest, to downgrade women's rights. It could be used to prevent the Charter from eroding something like the Quebec Stock Savings Plan, which has done a great deal



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for Quebecois, but is discriminatory in that it only gives tax benefits to Quebec citizens if they invest in Quebec-based companies. Quebec has a full series of measures in the socio-economic sphere that could fall prey to the Charter.

Excalibur: It has been maintained by certain women's groups that the Accord will undermine their collective rights. Do you feel that this is a justifiable concern?

Courchene: Which women's groups? The women's groups from Quebec have no problem with the distinct society clause. The women's groups from the rest of Canada appear to have some problem. The *Femme de Quebec* appeared before the committee and supported the Accord. So you have to be careful about which women's groups you are talking about.

Excalibur: Do you think it is possible that in the future the government of Quebec, in the name of promoting its distinctness, may legislate in some fashion against women in the workplace to raise the birthrate in the province, thus impinging on women's collective rights?

Courchene: Well, that is the horror story they are generating. Yeah, it's possible, but very unlikely. In my view, the fact that Quebec has some control over immigration refutes the notion that the Charter will be impinged due to the numbers game (demographics) because they have another escape clause. In my view, the distinct society clause will influence the socio-economic positions Quebec takes, but not at the expense of the equality of the sexes. The Supreme Court would have no trouble saying that the equality of the sexes supercedes the distinct society clause.



Excalibur: You raised a point concerning Quebec's control over aspects of immigration. The Accord guarantees Quebec a proportion of the annual immigration quota consistent with her proportion of Canada's population. How would that stipulation operate if the immigrants choose to reside in English Canada?

Courchene: First of all, the question really has nothing to do with Meech Lake. If you don't like the fact that Quebec has some power over immigration go back to the founding fathers and ask them why they made it a joint power. Well before Meech Lake there was an agreement which essentially guarantees what Meech Lake does. Meech Lake put a stamp on that form arrangement and put it in the constitution. So Quebec has the right to a certain proportion of the immigrants, but once they hit Quebec City or Montreal then they come under the terms of the Charter and they have the right to move. The right is granted to the rest of the provinces as well.

Excalibur: How do you feel about the process of constitutional revision that occurred at Meech Lake where we see 11 men meeting behind closed doors to hammer out a fundamental revision of our country?

Courchene: That's nonsense. We had two full years of Lowell Murray moving up and down the provinces. I think basically what is driving these criticisms is the legitimate view held by a lot of people that Canada should be a more centralist country. I am a de-centralist and I am very happy with Meech Lake, except I don't think Meech Lake is very decentralizing. For the first time in our history the provinces have said that Ottawa has the right to exercise the spending power. In return for the formalization of the conventional practices of opting out, the provinces granted Ottawa the right to spend in areas of provincial jurisdiction.

Excalibur: The provincial fight to opt out was already established. Is it not true that the federal spending power was also established by convention? So Meech Lake merely entrenches constitutionally the arrangements that existed for both levels of government?

Courchene: That may well be, but I think that Ottawa now has more power to make proposals in the areas of social policy. Yet on the other hand, they have to be quite careful to get provincial agreement or else they will have a lot of opting out. The opting out will be for one of two reasons. One because of a dislike of a programme and a fear that if a programme gets established, like Medicare, that after a while Ottawa (down the road) may start renegeing on the funding and put extra commitments (for the provinces) there. What is important is the long-term bindingness that is implicit in opting out. I don't think that most provinces want to opt out. In general opting out is a solution for our federation, not a problem. Without opting out, for example, with the income tax system, we allow Quebec to have its own income tax system. Because it has its own income tax system, the rest of Canada can have a very coordinated income tax system where we only have to file one return. Yet, suppose we didn't allow Quebec to opt out, we would be in the middle somewhere with a system which neither of us like as much. To say opting out is de-centralizing is a bit misleading because it allows Quebec to go where its preferences are, while in turn the rest of us can be more centralized and go where our preferences are. Is that centralizing or de-centralizing?

Excalibur: Do you feel the Accord's entrenchment of the practice of holding annual First Ministers' Conferences will shift sovereignty in Canada from parliament and the legislatures to the First Ministers' Conference?

Courchene: Most of the shared cost agreements were hammered out behind closed doors at First Ministers' Conferences and were presented to parliament as fait accompli. That was certainly true of the 1977 fiscal arrangement. One of the problems we have as a federation is how to integrate the provinces into decision-making in areas that are under provincial control, and as

you know, because the provinces have no role at the centre, you have to go through First Ministers' Conferences. As a society gets more complex, there are no water-tight compartments anymore. The decision of one government obviously impacts on others, creating more room for joint decisions. First Ministers' Conferences are an implication of that. Now Meech Lake enshrines the First Ministers' Conference. That, I think, will help the process from Ottawa's standpoint. Because if you know First Ministers' Conferences are coming up every year, you can then hold debates in the House of Commons on what the issues are and have some influence on what the Prime Minister can say and so can the provinces influence what their own premiers can do. If you have a regularly scheduled First Ministers' Conferences with a defined agenda, the Commons can have some input. In the long term, the more power given to the Senate the less role you can give to First Ministers' Conferences, because the Senate will provide a legitimate role for provincial interests within the federal system. The problem right now is that the Senate is responsible to no one, so there is this tremendous fear. I would think that if the Senate gets more power without being elected, it is going to be a loose cannon on deck.

Excalibur: How do you feel about the Yukon and the Northwest Territories' concern that the revised amending formula requiring unanimous provincial agreement will impair their ability to attain provincial status in addition to potentially paralyzing further constitutional reform?

Courchene: Under the old system Ontario and Quebec could get together and veto any amendment Saskatchewan and PEI couldn't. Sometimes you couldn't get three provinces who could do it. I think one of the principles that came out of Meech Lake is a redefinition of what the provinces are: they are equal. I see no reason not to have equality of the provinces in terms of being able to alter the constitution. What we have done is give each province a veto. On the entry of new provinces, you have to do things one at a time. There was no possibility of new provinces entering confederation while Quebec was not a participatory signatory to it (the Constitution). It seems to be that the provinces have to ensure that they aren't going to get hurt by a new province coming in. Let's say if Ottawa decides the equalization pie is fixed and if some new province comes in and it's very poor—

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THE ECONOMIC IMPLICATIONS

Meech Lake Accord Glossary

Distinct Society Clause

The first and arguably the most contentious revision enshrines Quebec's status as a distinct society within Canada. The Quebec National Assembly will be empowered to "preserve and promote" this status. In turn, Ottawa is vested with the obligation to "preserve the fundamental" characteristics of Canada. These were defined as the linguistic duality of the nation with French concentrated in Quebec and English predominant in the remainder of the country. It is also noted that the distinct society amendment would not prejudice the existing powers of either the federal or provincial branches of government. The rights of aboriginal peoples and the nation's multicultural heritage were in turn shielded from any adverse effects.

Supreme Court Judges

The nomination process for Supreme Court judges will also be ratified under the Accord. As it stands, there are a total of nine justices to be appointed, three of which are to be from the Quebec bar. As with the Senators, the province will nominate those who they see fit for the position(s), and the federal government will have the final choice. With respect to Quebec's nominations, they may appoint persons who represent Quebec's system of civil law, Quebec being the only province with its own civil law system.

Immigration

The Accord also deals with changes to the nation's immigration procedures. The federal government and the Quebec government are to conclude an agreement concerning immigration as soon as possible. The agreement will guarantee that Quebec will receive a number of immigrants, including refugees, within the annual total that is consistent with her proportion of the national population. In addition, for demographic reasons, Quebec will have the right to exceed that figure by 5% if it so desires. After the conclusion of the agreement, Ottawa will withdraw all services (except citizenship) for the reception and integration of all foreign nationals settling in Quebec. The federal government will also be committed to negotiating an immigration agreement with any province that so requests. National immigration policy will remain the jurisdiction of the federal government as it will decide the standards and objectives of the country's admissions criteria.

therefore taking a large chunk of equalization payments—the guys who would get hurt are the two or three provinces who currently have no veto. PEI ought to be able to ensure that a new province will not come in at the expense of equalization payments to PEI. I don't think that will cut down the process at all. I think that it is very healthy to have all provinces agreeing to the entry of a new province.

Excalibur: Some quarters contend that Meech Lake, by giving the provinces more leverage relative to the federal government, will ultimately undermine Ottawa's ability to effectively coordinate the nation's economic policies.

Courchene: The great thing about the spending power is that it guarantees an eternal economic union in Canada. It allows the free flow of people across the system. There is no way the new opting out provision is going to be able to win in the face of that. If people argue that this is going to mean the provinces are going to mount "beggar thy neighbour" policies, I just think they are wrong. It is the way our federation has developed particularly since I believe the constitution rolls with the needs of the times. One of the needs of the time is to have an external economic union. No province will ever be able to mount a programme that will discriminate against another province in the shared cost agreement that will clearly violate national objectives.

Excalibur: Will greater provincial leverage vis-a-vis the federal government potentially raise protectionist barriers between the provinces and scuttle any potential for free trade with the US?

Courchene: As an economist I feel the gains to be had from gaining greater movement of goods within Canada are less than the gains to be had from international free trade. The best way to remove internal barriers is to get international free trade, then the provinces won't be able to hold them anymore. When you have a really open economy, and you mount a barrier, you pay, you can't export anymore. The premise is that is you have a small open economy, the world is trading around you. If you put up a barrier you're going to suffer from something inefficient. When Ottawa puts a barrier around the whole system, called a national tariff, then all of a sudden you (provincially) have a lot of power. When you get free trade, the provincial barriers will have to fall.

shapiro



Excalibur: Do you feel that the spending power and opting out clauses will lead to a de-unification of national views and national values?

Shapiro: I don't think directly. I see the problem with the opting out provisions and with the whole Accord is simply that it's giving more cards for the provinces to play and thus allowing the provinces to maintain all the economic barriers, impediments and inefficiencies that they presently maintain. My view of how our economy works is that the provinces are more prone towards protectionism—protection of dying industries, protection of jobs, protection of seats in Parliament. That is, they don't want population to leave, so any more power that you give to the provinces is simply going to allow them to play these cards out in favour of greater federal government funding of these protectionist barriers.

Excalibur: It seems strange that the federal government would compensate the provinces for opting out of national programmes. Is it possible to maintain a certain set of national objectives within a framework where anybody can opt out? The whole clause about meeting national objectives seems rather ambiguous. How do you feel about that?

Shapiro: I'm not too worried about ending up with a variety of programmes under one common head. In other words, I'm not worried about a large number of provinces opting out of some particular national social programme then setting up their own quite dissimilar provincial programme. I suspect that they're not going to have an incentive to set up things that are quite different. I think they do have an incentive to get federal funds and take the credit. In other words, they'll have an incentive to set up what appear to be provincial programmes but they will be federally funded. That way, they don't have to raise the funds for them, or not be seen to be raising the funds, yet they can get the credit for the programmes.

But are these programmes going to be vastly different from province to province? I don't think so. Assuming the funding schedules are worked out on a sensible basis, it seems to me that PEI, for example, could mount a social programme as well as any other province. So again, I come back to that main theme that it doesn't worry me about having a patchwork of programmes across the country and about some standards falling quite low. Unless, of course, you get some strange party in power in some province that doesn't believe in some kind of social programme so they try to emasculate it.

Excalibur: A lot of the women's groups and so forth are worried, because daycare programmes, etc. may be endangered. They think that's a real threat. What do you think?

Shapiro: Well it may be. A very conservative type of government might not think that daycare will be much of a priority and although they would likely set up some kind of program, assuming they opt out, they might not set up the most efficient programme or allow a programme to deteriorate. But, if that's the case, why would they opt out in the first place? If they're not interested in the programme, why not just let the federal government set up a national programme? I'm not too concerned about some of the details of the Accord as they're going to work themselves out politically. I'm concerned that by vesting more power in the provinces, you're going to continue the process of erecting barriers within Canada.

Excalibur: The real problem for you, then, is that you see free trade within Canada as being at stake?

Shapiro: We have a huge program, both federally and provincially in Canada, of subsidizing dying industries, of giving interest-free loans, of supposedly trying to encourage employment but in fact creating artificial economic entities that can't compete and that end up paying miserable wages. All for what? So the population won't move in Canada? So that capital won't flow from where it's really needed and can't survive to areas where it could survive? We're erecting all these barriers within Canada, and I see the provinces as having a greater incentive to maintain these barriers. They're the ones who don't want to lose seats in Parliament. Imagine a group of union leaders, municipal leaders and the MPP coming to a premier and saying, look, this industry is dying. If we don't get help, it's going to close down and 10,000 workers are going to be unemployed. Obviously the province is not going to say "that's okay because those workers could go to other jobs where they're needed." The province is more likely to say "we'll support you, or we'll raise funds for, or, better yet, try to get federal funds to support you." So, you're supporting inefficient industries.

I'm not saying we should let dying industries close down overnight. You can guarantee a transition programme, you can even pay workers to move—it's cheaper in the long run in many cases than subsidizing them year after year.

We usually end up using public funds to finance zombies. And it's these dead industries that always pay the worst wages because, of course, a miserable industry is going to pay miserable wages. So, you're using public money to create poverty, because you pay people just enough to stay where they are. Thus, with Meech Lake, the more power you give to the provinces, who don't have a national interest, the more you are going to maintain that and encourage it.

Excalibur: Do you feel that the danger is lodged, most directly in an economic sense, with the spending power clause?

Shapiro: Stand back and look at the whole Accord. I don't see how one can say this doesn't give more power to the provinces. If there's discussion over some kind of national programme and one or a few provinces say they don't want that programme or they're going to opt out, or if there's some discussion over the Senate or anything dealt with by Meech Lake, and the provinces and Ottawa are at odds, then the provinces can bargain off their opposition to the programme by saying they want more funds in this or that area. So, it's the ability to play off things, to bargain off against the federal government and get more funds. It's the federal government that's the overseer of the whole national interest, and they're the only ones that can ever take steps to try to eliminate these barriers to trade within Canada.

I suspect that, since the Accord will contribute to greater protectionism by the provinces, it's going to have a negative effect on our trade with the US.

Excalibur: How do you think this will effect trade as it now stands with the US?

Shapiro: I suspect that, since the Accord will contribute to greater protectionism by the provinces, it's going to have a negative effect on our trade with the US. The American government, both state and federal, is going to observe these protectionist moves and say "there's no level playing field, there's no fair set of rules here. The Canadians have all these restrictions, so how can they complain when we take measures against their lumber, potato or steel?" It's almost a law that if one country gets more protectionist, its trading partners will too.

Excalibur: What do you think this is going to do to the economy in the long run?

Shapiro: I think we've been moving towards a more static kind of economic society. Consider, for example, what's happened to employment historically in Canada. We fought for the right to join unions, and that right was confirmed after World War II, as was the right to a job. Now we're at the point where it's virtually your right to keep your present job forever. I doubt if Bob White would agree that a single job in Canada should be lost. Let's say you had one project which could employ 10,000 workers, but it doesn't exist yet. But you're not sure who those workers are. On the other hand, you've got an industry that employs 2,000 people and it's been subsidized, it can't survive, and it can't compete. Doesn't it make sense to say let the dying industry die and let's create the new industry somewhere else? Do you think those 2,000 people are going to agree with that? Do you think their local municipalities will agree, or their local MP or MPP? Even though there could be great benefits by letting resources be shifted around the country, it's just natural that the people who are going to directly bear the cost are going to complain the loudest. The people who are going to benefit aren't known yet.

Excalibur: Is it a power struggle, then, because if the 2,000 people moved out of the district the MPP may not get re-elected?

Shapiro: Well, they're not going to be very keen on the MPP if he takes no step, if he doesn't speak up to protect them. I don't want to sound too harsh here and throw people out of their homes. You can help people move, you can retain them. There are many things you can do that would be cheaper than long-term subsidization. In the steel and coal companies in the Maritimes, for example, we could have transferred people around or paid them to transfer, and built them homes and schools and made life very much better for them than it is now. But this requires a dynamic society. There's some hope that the federal government in its role as an overseer of the national interest is going to be more aware than the provinces that you can't go on subsidizing losing industries forever. That's Meech Lake for me. More power to the provinces means a more protected society.

Excalibur: What do you think the one vote for one province veto power will do in this connection?

Shapiro: I think in every area of change there are going to be people whose interests are negatively affected. If you give everyone a veto at all times, you're not going to be able to do anything.

Next week *Excalibur* will continue its coverage of the Meech Lake debate with an examination of the long-term political ramifications of the Accord.