

*The Constitution*

was also set forth in section 91 and in the exceptions to exclusive provincial powers which are to be found in section 92.

To further substantiate our economic union, the British North America Act provided for a single currency, a banking system and other necessary monetary instruments, along, of course, with the highly important trade and commerce power granted in section 91, which ensures basic federal economic paramountcy.

Additionally, however, to underline the nature of the economic union which was being created, the British North America Act, in section 121, states:

All articles of the growth, produce, or manufacture of any one of the provinces shall, from and after the union, be admitted free into each of the other provinces.

It was no accident that the Fathers of Confederation entrenched these rights of the federal government in the BNA Act because they were conscious of the problems that would be created if the barriers continued among the future provinces of Canada. Unfortunately, experience has shown that the fears of the Fathers of Confederation were well warranted. Today, of course, section 121 may be read as being intended to include services, capital and labour, as well as the free movement of goods, but in the face of increasing interprovincial barriers it is now seen by many as insufficiently explicit. With notable ingenuity, provinces have discovered other regulatory devices which have the same effect as customs duties, those duties which were eliminated at the time of confederation, and thereby, in effect, they can circumvent section 121.

It has been the recent experience in Canada that provinces have focused increasingly on the means to improve their own narrow economic performance, especially high value added activities. As a result, many provincial policies now weaken the common market, reducing gains that could otherwise be generated by industrial specialization, and labour and capital are not being used as efficiently as possible.

As each province seeks greater industrial and economic growth, they have sometimes, either wittingly or unwittingly, entered into competition with one another. Let me give a few examples of such barriers and obstructions as exist today. I shall do so with reference to three areas: the free movement of goods, the free movement of capital, and the free movement of labour.

In the case of goods, we see procurement practices on the part of provinces which extend to construction contracts as well as the purchase of goods, a necessity for a high degree of provincial content which can detract from the efficiency of Canadian manufacturing and construction industries. In the case of marketing boards, there are limitations and established prices which can hinder interprovincial trade. In the uniformity of legislation, provinces can cut across the intention of a common market, of a customs union even, by putting up terms and conditions which hinder the nature of interprovincial trade.

Similarly in transportation, particularly in the trucking industry, we have many examples of obstruction and lack of

reciprocity which contribute to the breaking down of the real benefits which otherwise should accrue from interprovincial commerce. Equally in the case of the free movement of capital, subsidies to provincial companies, provincial investment tax credits, the regulation of security markets by provinces can all lead to a lack of co-ordination and to competition among provinces. There have, of course, been cases of provincial interference in takeover bids, and members of the House are aware of such recent instances in British Columbia and in Quebec. The competition policy itself can cause difficulties in interjurisdictional disputes. Pension plans may vary from province to province in such a way as to hinder the movement of capital. Land sales and provincial investment plans can be regulated in such a way as to prevent or lessen opportunities for other Canadians to participate in the total national development of our country.

But it is on the third area, that of mobility of labour, that I wish to spend a few minutes because it is specifically that right which is now being placed in our constitution. I do not need to remind some of my colleagues in the House of the various local hiring restrictions which may be found in provincial legislation. I would cite the petroleum and natural gas act of Newfoundland, Nova Scotia's act respecting petroleum resources, the Quebec construction industry's labour relations act, Saskatchewan lease agreements with resource development companies seeking licences to operate, and, of course, many other examples could be offered. The point is that under such legislation, which also extends to restrictions on the freedom of movement of professionals as well of skilled and unskilled labour, requirements are imposed which discriminate in favour of provincial residents. To take only one example of many, in Alberta a pharmacist must have resided in the province for three months before he can apply for registration, and the waiting period in Ontario for a pharmacist is six months. Those in the House who are lawyers will be aware equally of the residency restrictions which are placed on the movement of lawyers within our country.

No one would dispute the fact that the provinces have jurisdiction over labour under section 92 of the BNA Act. They can set forth the conditions of employment, the licensing of professionals, and they can legislate labour laws, but these undeniable powers are sometimes distorted or extended in such a way as to cause increasing obstacles to the full realization of our total economic potential.

The impact of these barriers must be evident to anyone who would recognize that any such interprovincial barriers to the movement of labour, capital and goods prevent all Canadians from achieving the benefits which would flow naturally from our full economic integration. We lose, by such barriers, the benefit of a greater scale of production, the benefits of specialization, and the full benefits that can accrue from the snaring of joint services in transportation and in communications.

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Most of all, the barriers can reduce Canada's ability as a nation to compete in a difficult world market and to negotiate