

## Constitutional change: once more into the Meech

by Ira Nayman

"It strikes me as a horrible process," James MacPherson, dean of Osgoode Hall Law School, said of the way in which Manitoba, New Brunswick and Newfoundland finally agreed to sign the Meech Lake Accord. The process was "patently indefensible," according to Osgoode Hall Law professor Jamie Cameron.

MacPherson explained that each day would start with a briefing from Premier Peterson on what had transpired the day before, followed by an hour long discussion of options and tactics. Then, the First Ministers would meet in closed session for the day; they were only allowed to take an additional person into the negotiations once, and most chose their Attorneys-General.

According to MacPherson, Premier Peterson stressed to his team at their initial

thing substantial from the conference, and that, therefore, it could broker between the other provinces.

Cameron said that the negotiations highlighted the differences between an executive style of leadership (where decisions affecting the country are made by a small number of elected officials) and a participatory model. In her view, executive federalism was "difficult to defend;" legitimate concerns (of women, for instance, or native Canadians) were not addressed by the eleven men who participated in the Meech

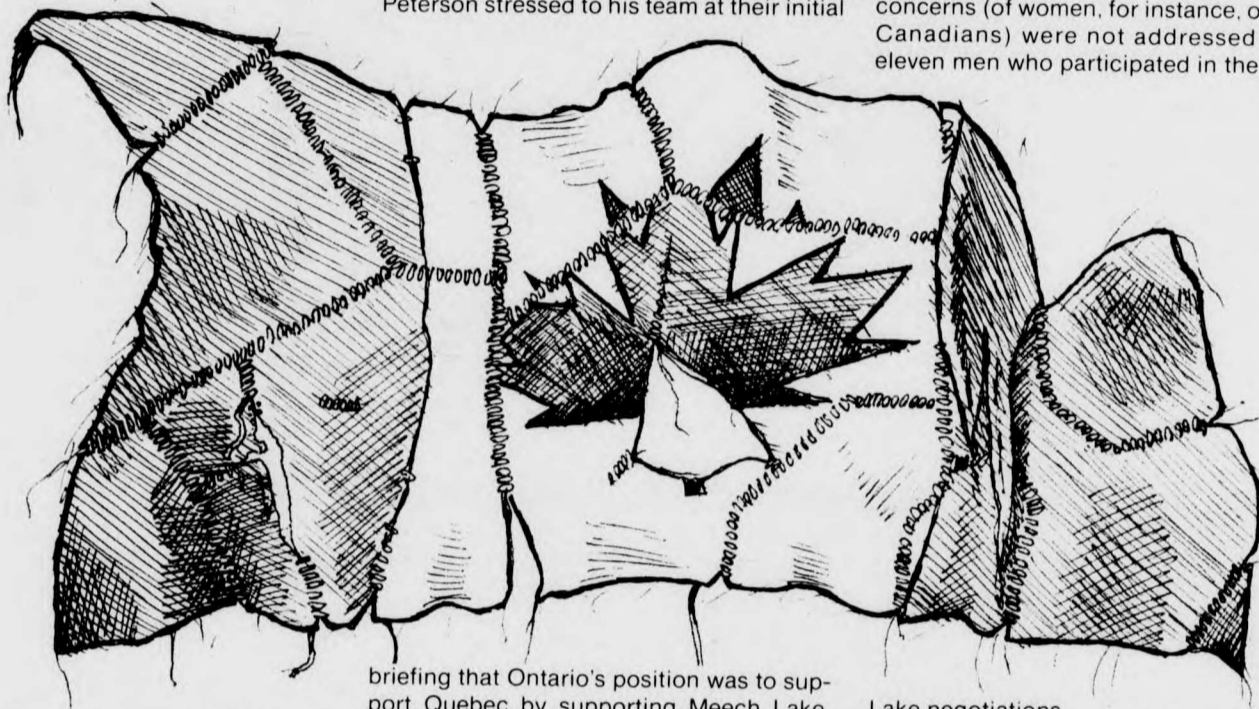
beginning. Senate reform was a major issue for the western Premiers, who believed an elected senate with equal representation from all the provinces would change the fact that they "don't have the voice that they deserve" in Ottawa. They felt that "there has to be something in it for us," MacPherson explained.

On the third full day of negotiations, Prince Edward Island Premier Joe Ghiz suggested two additional seats for each of the four western provinces and Newfoundland. This seemed to meet with general approval, but Quebec Premier Robert Bourassa "had been really attacked on that," Dean MacPherson said, and refused to allow any compromise which would lessen the percentage of seats from Quebec, as Premier Ghiz' plan did. Two days later, according to MacPherson, the deal seemed to be falling apart over an issue "that doesn't seem to mean anything."

MacPherson suggested that Ontario give up some seats, which would appease both the western and Quebec Premiers. "I'm from Nova Scotia," he joked, and for years I've been looking for a way of taking something from Ontario." (As it happened, Ontario gave up only six Senate seats; two of the other four came from Nova Scotia.)

As well, in order to quell fears that the "distinct society" clause would give Quebec the power to override the guarantees of the Charter of Rights and Freedoms, professors Hogg and Cameron signed a letter stating the opinion that it would not. "The letter doesn't say much," Hogg admitted, but it did allow Newfoundland Premier Clyde Wells to walk away with something.

And, what about the cellular phone flap? "We were warned at one point about the phones," MacPherson said, although there was no way to be sure if they were being tapped or not. "Cellular phones changed us," Hogg added, pointing out that any participant could be in contact with any other participant almost instantaneously.



graphic by Brett Lamb

MacPherson, Cameron and professor Peter Hogg were part of a group of seven legal scholars recruited by Ontario Premier David Peterson to advise him during last week's marathon First Minister's bargaining session. Along with Attorney-General Ian Scott, Ontario New Democratic Party leader Bob Rae, Ontario Conservative Party leader Mike Harris and six senior civil servants, the seven scholars contributed directly to Ontario's input at the meeting.

briefing that Ontario's position was to support Quebec by supporting Meech Lake. Since seven out of 10 provinces and the federal government had already ratified it, Peterson believed that the greatest consensus would be for "Meech as is," and that the negotiations would have to concentrate on finding ways of gaining the approval of the three remaining provinces.

MacPherson believed that Premier Peterson was "sincere" in his desire to support Quebec. Another thing stressed at the briefing was that Ontario didn't really want any-

Lake negotiations.

Despite their concerns about the process, all three believed that the Meech Lake Accord was absolutely necessary for Canada. When the Canadian Constitution was patriated from Britain in 1982, Quebecers felt "less than equal" with people from other provinces, Cameron explained; the Accord gave them legal standing within the Constitution.

In fact, MacPherson made the suggestion that may have saved the Accord. From the

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