Meech Lake Accord

Quebec's refusal to accept the patriation package in 1981 caused it to feel somewhat alienated from the Canadian 'constitutional family.' This led to renewed constitutional discussions, beginning around 1985, in which the government of Quebec made a series of proposals that, if accepted by all the provinces and the federal government, would have led to Quebec's return to the 'constitutional family.'

Since, in the interim, Quebec was as legally bound as all of the other provinces by the provisions of the *Canada Act 1982* and its Schedule B, the *Constitution Act, 1982*, the Quebec proposals also assumed a great symbolic significance.

The Quebec proposals could be divided into two components. The first dealt with the distinctiveness of Quebec in the Canadian federation, and the second with a potpourri of other matters. These other matters arguably tended to enhance the role of the provinces in their relationship with the federal government. Not surprisingly, then, when Quebec proposed this package, including the latter portion, which enhanced the role of the provinces, all of the provinces initially agreed to the package under a principle of 'juridical equality'. This package became known as the Meech Lake Constitutional Accord of 1987.

The 'Meech Lake Accord' recognized the province of Quebec as constituting a distinct society within Canada. At the same time, it recognized the anglophone minority in Quebec as a fundamental characteristic of Canada, as well as the francophone minority elsewhere in Canada.

The provinces were, for the first time, given a formal role in nominating persons to sit on certain federal institutions (namely, the Senate and the Supreme Court of Canada).

For some time, social programs falling within provincial legislative jurisdiction (e.g. health care) had largely been financed by the federal government since the federal government held greater taxation power, and hence possessed greater spending ability than the provinces (see federal spending power).

Provincial concerns with this related to federal attachments of conditions to this financing. Under the Accord, a province could opt out (see opting out) of one of these programs provided it established its own, and provided its own program had objectives compatible with the national objectives of the program. In such a case, the federal government would continue to finance the new provincial program with reasonable compensation.

Under the *Constitution Act, 1867,* the provinces and the federal government were given joint or parallel jurisdiction over immigration, leading to a series of agreements on the settlement of new immigrants in Canada. The Accord constitutionalized those agreements.

The Accord also constitutionalized the federal-provincial consultative process by requiring that at least one First Ministers' meeting be held annually and by requiring that the issues

of Senate reform and the fisheries be discussed at those meetings.

Finally, the Accord slightly changed the existing formula for constitutional amendment (see amending formula). Before the Accord, two formulae for amendment existed in Canada. The general formula required the consent of the Senate and the House of Commons and of the legislatures of two-thirds of the provinces, provided those provinces comprised fifty percent of the population of Canada. For some specialized listed matters, the formula required the consent of Parliament and the legislatures of all of the provinces. A third section listing other specialized matters existed as well, but these matters required only the general amending formula. The Accord took this latter list of specialized matters, added a number of other issues, and moved them to the first list of specialized matters. As a result, all listed specialized matters (such as changes to the Senate and the creation of new provinces) came to require the unanimous consent of Parliament and the legislatures of the provinces.

To become law, the Accord had to be ratified by Parliament and the legislatures of all the provinces in accordance with section 41 of the *Constitution Act, 1867*. Quebec's legislative assembly was the first to pass the required resolution of approval on 23 June 1987; the Accord had to receive unanimous ratification on or before 23 June 1990. In early June of 1990, all First Ministers finally agreed to ratify the Accord subject to guarantees of further constitutional discussion following the Accord on such issues as an elected Senate, the amending formula and equality and Aboriginal issues.

Nevertheless, on the final ratification date, the Accord unravelled. Although all parties in Manitoba had finally agreed to the Accord, it required public hearings unless there was the unanimous consent of the legislature to dispense with such hearings. However, one member of the Manitoba legislature, Elijah Harper, withheld his consent and ultimately the Accord did not come to a vote in that province. On the same day, wishing to allow Manitoba time, the federal minister responsible for federal-provincial relations suggested extension by three months of the ratification date – to the third anniversary of Saskatchewan's ratification – necessitating re-ratification in Quebec. This dissatisfied the premier of Newfoundland who then did not bring the Accord to a vote in his legislature on that day – ultimately delivering yet another blow to the 'Meech Lake Accord' and ensuring its disintegration.