

## **The Changing Nature of Quebec-Canada Relations: From the 1980 Referendum to the Summit of the Canadas**

by

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### **ABSTRACT**

This paper traces the economic and political evolution of Quebec-Canada relations from the 1980 Referendum through to the July 2004 Council of the Federation (COF) meeting at Niagara-on-the-Lake. The underlying thesis is that Quebec's traditional demands for acquiring greater powers within the federation have now given way to demands for acquiring greater access to revenues in order to be able to fully exercise its *existing* constitutional powers. What has triggered this rather dramatic shift is the advent of globalization and the knowledge-based era (KBE), both of which have served to redefine what meaningful sovereignty is all about in the 21<sup>st</sup> century. In short, sovereignty is now about how societies live, and work and play, which in turn means that on the policy front it is all about education, skills, health, cities and citizens generally. In Canada, these are largely *provincial* powers. This being the case, it is hardly surprising that Quebec's rallying cry is focussed on restoring vertical fiscal balance in the federation.

With the resurgence of the Bloc Québécois to 54 seats and 49% of the popular vote in the June election, uncertainty is again on the horizon. Partly because of this, but more because of the way in which Quebec-Canada relations were evolving in any event, the September First Ministers' Meeting is emerging as one of the watershed moments in our history. Much more than the future of medicare is at stake, since the issues relating to vertical fiscal balance, equalization, Quebec's distinctive status (as

recognized in the recent Council of the Federation provision for the province's opting out with compensation for pharmacare) as well as the division of powers themselves are also on the table. Adding to this menu is the reality that the forthcoming Throne Speech will focus on health, children and cities—arguably all of which fall under provincial jurisdiction. Accordingly, the essay concludes with an assessment of the potential implications of this forthcoming "Summit of the Canadas."

### **I: Introduction**

What a difference a few months can make for policy analysts! All appeared quiet on the Quebec front in the time frame of the fall 2003 Institute of Intergovernmental Relations Conference *Quebec and Canada in the New Century: New Dynamics – New Opportunities*. The Charest Liberals were at the helm and the forces of sovereignty seemed safely at bay. From the post-federal-election perspective (August 2004), however, the environment is markedly different. Charest's confrontation with the unions and civil society has not gone well. More importantly, the Bloc Québécois captured an astounding 54 seats and 49% of the popular vote in Quebec in the June 28, 2004 election. And this was in spite of the fact that, in the days running up to the vote, Pierre Pettigrew and Stéphane Dion warned Quebecers that a vote for the BQ was, in effect, a vote for sovereignty. PQ leader Bernard Landry as much as confirmed this by suggesting the likelihood of a third Referendum in 2009 (i.e. after the PQ is presumed to have regained power). Moreover, with the Paul Martin Liberals reduced to a minority position in the House of Commons, the Bloc Québécois holds the balance of power in the sense that under some realistic scenarios it could bring the government down and precipitate an election. Hence, here too uncertainty is now the order of the day. As I concluded in an earlier assessment of Quebec-Canada relations (1990), the lights at Canada's constitutional crossroads are not flashing green, nor are they flashing red. Rather, they remain *Forever Amber*.

In order to reflect on the changing (current and longer-term) nature of Quebec-Canada

relations in the 21<sup>st</sup> century, the analytical storyline on both the political and economic fronts must begin much earlier. Accordingly Part II focusses selectively on Quebec-Canada political relations in the 1980-1995 (or inter-referenda) era, dealing in turn with Charter federalism, the Meech and Charlottetown Accords and the 1995 Referendum. Part III presents a similar highlighting of political milestones under the Chrétien era, focussing on Quebec's relations with the provinces under the rubric of pan-Canadian provincialism and then on Quebec-Ottawa relations in terms of the *Clarity Act* and the sponsorship scandal. Attention then shifts in Part IV to Quebec-Canada economics relations dealing in turn with the implications flowing from NAFTA, the knowledge-based economy (KBE), Global City Regions, and "hourglass federalism" (or the federal invasion of provincial jurisdiction). Part V (*Quebec-Canada Dynamics in Century 21*) pulls together some of the observations and implications that arise from integrating the political and economic strands of the analysis in order to briefly document and assess the evolving nature of Quebec's political, economic and constitutional relationship with the rest of Canada. What emerges from this composite is the critical importance for Quebec and indeed for all of Canada of the forthcoming First Ministers' Meeting (FMM) on health care in September of 2004. Accordingly, the final section of the essay (Quebec and the Summit of the Canadas) outlines the range of issues that are at stake in the FMM and how they might be resolved.

## **II: Quebec-Canada Political Relations in the Inter-Referenda Period (1980-1995)**

### **A. Charter Federalism**

In the wake of the 60-40 victory for the federalist forces in the 1980 Quebec Referendum, Trudeau launched the 1980-82 constitutional round which culminated with the patriation of the *Constitution Act, 1867*, and the enactment of the *Constitution Act 1982* replete with the enshrinement of the *Canadian Charter of Rights and Freedoms*. That flags flew at half-

mast over l'Assemblée nationale was unfortunate, to be sure, but Quebec's non-signatory status was only to be expected from a sovereignist government, or so the storyline presumably went. In any event, the Charter took hold almost immediately with Canadians, even in Quebec, so much so that the cleavages in the federation shifted from being territorially-based to being rights-based – Charter interests vs. vested interests, as it were. Indeed, the traditional territorial interests/cleavages arguably shifted from the provinces to the First Nations (and aboriginals more generally), with the Charter intriguingly serving as catalyst.

Roughly coincident (and obviously related) was the emergence, initially in Alberta, of a new philosophy of Canadian federalism, the so-called symmetric or triple-E federalism. At the most general level, this meant equal powers for all provinces, equal-per-capita representation in the House of Commons and equal provincial representation in the Senate. The related and more familiar version is the "triple-E Senate" – equal (by province), elected and effective. The argument for symmetrical federalism (or the notion that all provinces are equal and must be so treated) is a peculiar one coming from Alberta, since this province is the principal beneficiary of the most lucrative asymmetry in the federation, namely crown ownership of sub-surface resource rights. Admittedly, this arose because Ottawa initially withheld sub-surface rights from Alberta, but it is an asymmetry nonetheless. The larger puzzle is why the most fiscally powerful province would be the lead advocate for a Triple-E Senate, when the result would surely be to curtail the powers of the provinces and their premiers.

Meanwhile, the second coming of Robert Bourassa (1985) saw Quebec embrace "le virage vers les marchés." Importantly, this shift toward markets reflected a societal realization that Quebec's future would and should ultimately lie in North American economic space, rather than in Canadian economic space. Some of this was no doubt a response to the symbolic alienation emanating from the constitutional patriation

process. More was due to the realization that with the “economic capital” of Canada shifting west (in light of energy price hikes) it made far more sense for Quebecers to turn to the markets that were much closer and much bigger, namely the US northeast, rather than somehow leapfrogging Ontario to compete in western Canadian markets. The most tangible result of this societal shift was that Quebec in effect gave Canada the FTA in the 1988 federal election by delivering a “super majority” of its seats (63 of 75) to the Mulroney Tories. A simple majority of Quebec seats would have sunk the FTA.

### **B. The Meech Lake and Charlottetown Accords<sup>1</sup>**

The next highlighted milestone en route to the 1995 Referendum is the 1987-1990 Meech Lake Accord and ratification process. Designed to bring Quebec back into the Canadian constitutional family, the Accord, among other measures, explicitly recognized the “distinct society” nature of Quebec. The 1987 first ministers’ unanimous endorsement of Quebec’s five principles for assenting to the Constitution gradually eroded over the three-year ratification period. Part of this was the result of the election of new premiers (Wells in Newfoundland, McKenna in New Brunswick and Filmon in Manitoba) who were, by definition, not signatories of the Accord. And in the case of Wells and McKenna, they actively campaigned against Meech in their respective elections. Considerable responsibility for this erosion of support must also rest with Bourassa himself and his decision in 1989 to resort to the *Notwithstanding Clause* to promote French on commercial signs. Arguably, however, the larger reason for the underlying malaise on the part of non-Quebec Canada was that special status for Quebec was offside with “Charter federalism,” as elaborated earlier. The ultimate irony here is that Meech Lake was effectively hoist on its own petard. The essence of the Accord was asymmetric treatment for Quebec (the distinct-society clause) embedded within a symmetric (i.e., unanimity) ratification formula. On the eve of *La Fête de la St. Jean* and presumably drawing inspiration from the

Charter, some provinces simply exercised their equality or symmetrical right to effectively veto the asymmetrical Accord. While it was no doubt of enormous comfort to Canadians that the tumultuous *St. Jean Baptiste* parade took place under Robert Bourassa’s watch, the demise of Meech not only triggered dramatic political changes but, as well, set the sovereignty clock ticking inevitably toward a second referendum.

By way of elaboration, in the month or so prior to the formal collapse of Meech, federal Environment Minister Lucien Bouchard, joined by five other Quebec Tory MPs, bolted the Mulroney government to sit as independents. Initially committed to not forming a formal party, all this changed after *La Fête*: within two months none other than current BQ leader Gilles Duceppe became the first elected Bloc Québécois MP (winning a by-election in the Montreal riding of Laurier-Sainte-Marie), even though the BQ’s formal founding convention was not held until June 1991. And in the 1993 federal election, Bouchard led his 54-seat Bloc Québécois to the status of Her Majesty’s Loyal Opposition.

Premier Robert Bourassa’s response to the collapse of Meech was to launch two commissions on the future of Quebec. One of these was an internal Quebec Liberal Party assessment that produced the *Allaire Report* (after its Chair Jean Allaire) which, among other things, spelled out twenty-two powers that ought to be transferred to the provinces and, in particular, to Quebec. Ironically, the Allaire Report served as the vehicle for the rise of Mario Dumont, initially as the leader of the Liberal youth wing and, later, as the head of the ADQ. The second and more important response was the bi-partisan Bélanger-Campeau Commission, charged with conducting cross-province hearings and research and then to report on the future of Quebec. Beyond providing a legitimate venue for keeping sovereignty issues front and centre in Quebec, the Bélanger-Campeau Commission provided a valuable platform for commissioners Lucien Bouchard and to a lesser degree Jacques Parizeau and

Mario Dumont to enhance their profile among Quebecers.

Post Meech, the Mulroney Tories were also active on the constitutional file, striking both the Spicer Commission to take the pulse of ordinary Canadians on renewing federalism, and the more formal Beaudoin-Dobbie joint Senate-House Constitutional Committee. What finally resulted from all of this was the *Charlottetown Accord* – a cobbling together of a myriad of concessions designed to elicit support from Canadians in all walks of life for an omnibus package that included numerous measures that privileged Quebec (e.g. a commitment that Quebec would have a guarantee of 25 percent of the House of Commons seats and of three Supreme Court Justices), but that also included much of the content of Meech, several key concessions to First Nations, and a collection of other measures running the gamut from regional policy to the Bank of Canada. Complicating this already complex Charlottetown process was the fact that several provinces had, post-Meech, enacted legislation requiring a referendum on all future constitutional proposals. More complicating still, the Bélanger-Campeau Commission had essentially committed Quebec to another referendum on sovereignty by October of 1992. Ottawa reacted by calling a *national referendum* on the Charlottetown Accord for October 26, 1992. This was an important strategic initiative since it allowed Bourassa to substitute the national referendum on Charlottetown for the Bélanger-Campeau commitment to hold a Quebec referendum on sovereignty. In the event, fully 60% of Quebecers voted against the Charlottetown Accord. Thankfully, the Accord was also rejected in several other provinces (and even in Ontario, if one were to require the “yes” votes to be a majority of total votes cast, including the spoiled ballots). While the defeat of Charlottetown did succeed in deferring the second sovereignty referendum, this deferral was not to be for long.

### C. The 1995 Referendum

On the political front, there was a wholesale changing of the guard. Charlottetown was

Mulroney’s last stand, and in 1993 the Tory convention elected Kim Campbell as leader and Prime Minister. Earlier (1990), Jean Chrétien had replaced John Turner as Liberal leader. In the November, 1993 federal election, the 1984-1993 Mulroney coalition evaporated completely, with the Kim Campbell Tories losing all but two seats, including that of the leader. Chrétien’s Liberals emerged as victorious, but faced over 100 opposition members from parties that had not won any seats in the 1988 election. Lucien Bouchard’s Bloc Québécois became the official opposition on the basis of the 54 (of 75) seats it won in Quebec. Preston Manning’s Reform Party converted its opposition to the Charlottetown Accord, *inter alia*, into 52 seats in Western Canada.

On the Quebec front, the PQ returned to power in the 1994 election. Although the popular vote was a virtual dead heat, Jacques Parizeau and the PQ won a comfortable majority of seats over Daniel Johnson and the PLQ (Liberals). In spite of the fact that the PQ share of the popular vote was considerably less than what was expected, Parizeau nonetheless committed the province to a second referendum on sovereignty (eventually scheduled for October 30, 1995). Canada was again in play!

The pace of events then escalated dramatically. Already viewed as having eclipsed Parizeau as the champion of Quebec independence, Bouchard’s status among Quebecers reached divine-like proportions in the wake of his miraculous recovery from necrotizing fasciitis in the fall of 1994, so much so that Parizeau invited him to be co-chair of the “yes” side. Among Bouchard’s first moves was to bring Mario Dumont on board, thereby uniting the PQ, BQ and ADQ under the sovereignist mantle. Their June 12, 1995 signed agreement endorsed the following approach to the Referendum question:

The sovereignty question was to be put in conjunction with an offer of a political and economic partnership with Canada that would follow a Yes vote. Ottawa would

have a year to decide. If no agreement could be reached, Quebec would move to full independence (Martin, 1997, 280).

Even with this conciliatory question the Parizeau-Bouchard Yes forces were trailing badly a month prior to the referendum. Then came the master stroke: Parizeau stepped aside and handed over control of the Yes forces to Lucien Bouchard. As all Canadians recall, it was only the eleventh-hour, 100,000-strong Parc du Canada rally that, arguably, saved the day. The “Yes” side lost by the slimmest of margins – 49.4% to 50.6%. Following Parizeau’s “money and the ethnic vote” comment on the referendum results, Lucien Bouchard resigned his seat in the House of Commons and was shortly thereafter acclaimed premier of Quebec. This was only half of what Bouchard had long desired – the Quebec he was now in charge of was still in Canada and independence was, for the immediate future, a spent force.

### III: Canada-Quebec Political Relations in the Chrétien Era

#### A. Pan-Canadian Provincialism

The combination of a) Paul Martin’s massive cuts to provincial transfers in his 1995 budget and his accompanying request that the provinces help design Canada’s social policy principles in the CHST era, b) the emergence post-NAFTA of a north-south trading axis, and c) the perception if not the reality that Ottawa had bungled the Referendum interacted to spawn a very innovative and exciting period in Canadian federalism, namely *pan-Canadian provincialism*. The underlying reality, fully recognized by the provinces, was that Ottawa was both fiscally able and politically more-than-willing to invade provincial jurisdictions if the provinces did not adopt a pan-Canadian approach to their collective actions. This might not prevent federal intrusions, but it would at least make them politically more difficult. The instrument chosen by the provinces for addressing these pan-Canadian policy spillovers and for advancing provincial interests was the

revitalization of the Annual Premiers’ Conferences (APCs). Under the aegis of the APC (and in response to Paul Martin’s request), the Ministerial Council on Social Policy Renewal and Reform released its *Report To Premiers* which, inter alia, embodied 15 principles to underpin social Canada. This document was endorsed by the premiers at the 1996 Jasper APC along with a further request (perhaps influenced by my 1996 ACCESS paper) that the Ministerial Council design provincial and/or provincial-territorial mechanisms and processes in order to develop and promote adherence to national principles and standards. The resulting mechanisms (both provincial-territorial and provincial-territorial-federal) were presented at the 1997 St. Andrews APC and further honed for, and ratified by, the 1998 Saskatoon APC.

By this time it became clear that the initiative and momentum for social policy reform had shifted to the provinces. Indeed, a year earlier, the 1997 federal budget took a page out of the *Report To Premiers* and introduced the Canada Child Tax Benefit (CCTB). The CCTB was an exercise in creative federal-provincial co-determination. Ottawa sharply increased refundable child tax benefits to low income families via the federal income tax system. For their part the provinces were allowed to reduce their payments for children in welfare-receiving families by a similar amount, provided that these monies were re-directed to other programs relating to child support in low-income families.

With this model in mind, shortly after the summer 1998 Saskatoon APC the federal government joined with the provinces to formalize this creative federal-provincial co-determination in the form of the 1999 *Framework To Improve the Social Union for Canadians*, generally referred to as SUFA (Social Union Framework Agreement). Among SUFA’s provisions are the following:

- a set of social policy principles, most adapted from *A Report To Premiers*;
- mutual recognition of occupational qualifications across provinces;

- creative ways to allow the exercise of the federal spending power in areas of exclusive provincial jurisdiction provided that a majority of provinces were on side and that provinces would have a role in both policy design and implementation flexibility; and
- a dispute avoidance and resolution procedure that would allow for third-party fact-finding (which could apply to the Canada Health Act).

All in all, a flexible intergovernmental and co-determinational process designed to allow the federation to accommodate external and internal pressures for change.

Nonetheless, readers will have recognized that what is missing from this overview of SUFA and pan-Canadian provincialism more generally is that Quebec was *not* a formal party to any of this. One could argue that this would follow directly from the fact that the PQ was in power in Quebec. For example, just prior to his defeat at the hands of Jacques Parizeau, Premier Daniel Johnson was a signator to the *Agreement on Internal Trade* (AIT) in 1994. However, there is more at play here than whether Quebec is governed by the PLQ or the PQ, since all Quebec parties lined up against SUFA. One obvious substantive reason for this was that SUFA formally recognized the existence of the federal spending power in areas of exclusive provincial jurisdiction (although it must be noted that Quebec's long-standing desire to curb or eliminate the federal spending power in provincial jurisdiction necessarily requires a recognition of its existence in the first place). The larger issue is that Quebec is not about to enter an agreement with Ottawa that would impinge upon those policy areas that Quebec deems to fall under its exclusive jurisdiction. The issues surrounding the AIT are quite different, relating as they do to reciprocal responsibilities among and between equal constitutional players. In any event, SUFA represents a valuable instrument in an era where federal-provincial policy externalities and spillovers are ubiquitous. And even though

Quebec is not a signatory, it is the province most likely to take advantage of any flexibility in future SUFA-influenced accords. (More on this later).

By way of a further aside with respect to SUFA, the view of the Canadian policy community is, as I interpret it, that SUFA has been ineffective and/or irrelevant. To a degree, this criticism rings true. Part of the reason for this is that, post-SUFA, Ottawa's fiscal position has improved dramatically, both in absolute terms and relative to the provinces. Hence, unlike the time frame when SUFA was signed, the federal government is now fiscally able to drive home agreements with the provinces without involving the constraints of the SUFA process. But there are attendant costs to this. For example, both the 2000 and 2003 federal-provincial health accords were viewed by Ottawa as "buying" new health-care programs (home care, etc.). However, the provinces viewed the additional funds as unconditional transfers. In my view, buying leverage with the provinces will henceforth require the flexibility of SUFA-informed accords, rather than Ottawa-driven agreements.

Two remaining initiatives relating to pan-Canadian provincialism merit highlight. The first of these is the 1998 Calgary Declaration. Although only a page long, this is a remarkable document because it reveals the extent to which the provinces other than Quebec were anxious to back away from the earlier "symmetrical federalism" philosophy. It is especially fitting that the declaration was signed in Calgary, the hotbed of the symmetry rhetoric. Two of the principles are especially significant:

- "In Canada's federal system, where respect for diversity and equality underlies unity, the unique character of Quebec society, including its French-speaking majority, its culture and its tradition of civil law, is fundamental to the wellbeing of Canada. Consequently, the legislature and Government of Quebec have a role to protect and develop the

unique character of Quebec society within Canada.”

- If any future constitutional amendment confers powers on one province, these powers must be available to all provinces.”

In tandem, these provisions not only formally recognize the specificity of Quebec but endorse future Ottawa-Quebec deals provided they are offered to other provinces as well. This is a recognition of *de facto* asymmetry and, to a degree, *de jure* asymmetry as well. Since the Calgary Declaration was about Quebec, only the nine other provinces were signatories. And to add to its significance, the Declaration was passed in all nine of the provincial legislatures, often with considerable fanfare.

The final and, arguably, the most important exercise in pan-Canadian provincialism is the recent all-province agreement to embrace Premier Charest’s proposal for a *Council of the Federation* (henceforth COF). Cynics may claim that this is the other provinces’ way of thanking Jean Charest for wresting power from the PQ. However, it should be clear from the above analysis that the COF represents the obvious final step in the process that began with the revitalization of the APCs. Not surprisingly, therefore, the other provinces eagerly embraced the Quebec proposal. (As an aside, Quebec nationalists can embrace the Council and yet not be party to SUFA because the former represents coordination among equals whereas SUFA included the fiscally-dominant national jurisdiction as a party to an agreement about policies in provincial jurisdictions). To be sure, the issue foremost in the minds of the premiers when they created the Council was to utilize it as a vehicle for pressing Ottawa on the fiscal imbalance issue, one of the driving forces of which was the report of Quebec’s Séguin Commission (named after Yves Séguin, now Quebec’s finance minister) on the vertical fiscal imbalance in the federation. Important as this issue is to the provinces, the Council will nonetheless also be drawn into many other coordination and monitoring roles across a wide

range of provincial policy responsibilities, running the gamut from overseeing aspects of the Canada Health Act to monitoring the interprovincial economic and social unions.

Overall, therefore, the post-1995-Referendum period has coincided with the recognition by the provinces that unless they get their collective act together and internalize some of the resulting externalities, Ottawa would step in and do this coordination for them, and in the process erode some of their powers. While this collective decision by the provinces makes eminent sense in its own right, it is also the case that this new pan-Canadian role for the provinces is not independent of the manner in which the new global order is providing incentives for Ottawa to occupy areas of exclusive provincial jurisdiction. Prior to focussing on this emerging relationship between federalism and the new global order, the analysis turns to the manner in which the Chrétien Liberals approached the Quebec issue in the post-1995-Referendum period.

### **B. The Clarity Act and Sponsorship**

While the provinces were practising pan-Canadianism (the APCs and the Council of the Federation) and even accommodating Quebec (the Calgary Declaration), Ottawa was engaged in “combative” federalism, as reflected for example in Stéphane Dion’s letter-writing campaign against Bouchard and the separatists in the editorial pages of *Le Devoir* and *La Presse*, (e.g., if Canada is divisible, so is Quebec), and culminating in June 2000 with the *Clarity Act*. As prelude to this legislation, Ottawa submitted a reference to the Supreme Court of Canada, the ruling on which can be paraphrased as follows – Quebec does not have the right to secede unilaterally from Canada, but the rest of Canada has an obligation to negotiate Quebec’s separation if a clear majority of Quebecers have voted in favour of separation. Ottawa responded to this ruling by elaborating, *inter alia*, on the meaning of “unilaterally” and “clear majority” and incorporating all of this “clarification” into the *Clarity Act*. As indicated, the focus in the Act is on whether the

referendum question is clear and whether there is a clear majority, along with the manner in which the rest of Canada would go about negotiating with Quebec, should the occasion arise. Not only does Jean Chrétien view the *Clarity Act* as one of his proudest achievements ([www.canadianlawsite.com/clarity-act.htm](http://www.canadianlawsite.com/clarity-act.htm)), but there is a widespread view that the fact that the passage of the *Clarity Act* provoked so little concern among Quebecers was an important part of the reason why Lucien Bouchard stepped down as premier. More generally, the tough position that the Liberals took toward Quebec has come to be viewed as largely responsible for the erosion of support for sovereignty and for the victory of Jean Charest over Bernard Landry in the 2003 Quebec election.

While the passing of the *Clarity Act* did indeed coincide with the decline in support for independence, correlation is not the same as causation. In particular, my admittedly-not-widely-accepted view is that the underlying economic realities also played an important role. Toward this end, note that during the 1995 Referendum, Lucien Bouchard and company were able to get away with the claim that there would be no economic cost to separation. Some of this had to do with the fact that, as of 1995, it was far from clear that Ottawa would be able to get its own fiscal house in order, and in any event if it did so it was only because it was transferring its deficit to Quebec and the other provinces via dramatic CHST cuts. Moreover, presumably out of concern that the Referendum process was running off the rails, Paul Martin asserted that independence would cost Quebec one million jobs, a sufficiently outrageous claim which served to transfer the cost-of-separation issue from the realm of economics to the political or rhetorical realm. Post-referendum, however, the evidence was clear – Quebec’s economy did plummet, especially in relation to Ontario. As the Quebec economy gradually recovered, and as Ottawa tidied up its fiscal house (and indeed became the fiscal virtuoso of the G7), it became progressively more difficult to make any sort of case to the effect that Quebec would be better off economically

outside of Canada, at least for the critical transition period which could be quite lengthy. Arguably, this was also part of the underlying environment which contributed to ensuring that *Clarity Act* would *not* precipitate an upsurge in support for sovereignty.

However, as will be elaborated in Part IV, there were and are other and more fundamental factors at work – north-south integration and the advent of the knowledge-based economy – both of which are serving to alter Quebec’s economic and political role within Canada. And as will also be elaborated, the *Clarity Act* may well be viewed by Quebecers in the foreseeable future as a convenient “blueprint” for separation. But this is getting way ahead of the analytical storyline.

The other Canada-Quebec political development selected for highlight is the Sponsorship Program and the consequent resurgence of the Bloc Québécois in the 2004 federal election. If the *Clarity Act* was the stick in Ottawa’s post-Referendum approach to Quebec, the Sponsorship Program was intended to be the proverbial carrot – currying Quebec favour by raising the flag and lowering the (accountability) standard, as it were. This would have been serious enough on its own, but Paul Martin attempted to take the high road here, not only accepting no responsibility for, let alone knowledge of, the affair but also associating it with the Chrétien wing of the Liberal Party and inadvertently or otherwise embarrassing the Québécois political class. Moreover, it was somewhat ironical that, despite the Sponsorship scandal, Chrétien was probably held in higher regard in Quebec than at any time in his long career, due in large measure to his standing up to George Bush and keeping Canadian troops out of Iraq. In any event, rather than making the expected gains in Quebec, the Martin Liberals fell to 21 seats, with Gilles Duceppe and the Bloc winning 54 seats and 49% of the popular vote in Quebec. Arguably more importantly, the Bloc denied the Liberal-NDP tandem a majority coalition and, in this sense, the Bloc holds the balance of power in the House of Commons.



While it is obviously the case that the Bloc garnered the protest votes of a goodly number of federalist and nationalist voters, the fact remains that we are once again, and surely unexpectedly, in uncharted political waters. The Parti Québécois is already talking about re-taking L'Assemblée nationale, perhaps with Duceppe at the helm, and holding yet another referendum by decade's end.

As a companion to the above overview of Quebec-Canada *political* relations, the analysis now turns to a similar overview of Quebec-Canada *economic* relations, thereby setting the stage for an overall political-economy assessment of Quebec-Canada relations in the 21<sup>st</sup> century.

#### **IV: Quebec-Canada Economic Relations**

##### **A. Quebec and NAFTA**

With the FTA and NAFTA serving as catalysts, all provinces' trade has shifted sharply north-south, relative to east-west. In Quebec's case, in 1989 (the first year of the FTA) exports to its sister provinces exceeded its exports to the US-- 21.2% of GDP for east-west exports (or exports to the rest of Canada) and 16.0% of GDP for north-south exports (or exports to the USA). By 2001, however, this had changed dramatically. Quebec's north-south exports increased to 33.6% of its GDP while its exports to the rest of Canada fell to 19.4%. Indeed, as of 2001, all provinces except Manitoba exported more to the US than they did to the rest of Canada.

In effect, Canada has become a series of north-south, cross-border economies rather than a single east-west national economy. And because Canada's provinces/regions tend to differ industrially more from each other than from their cross-border counterparts, the provinces' attempt to enhance their prospects in North America will tend to result rather naturally in an enhanced degree of policy decentralization and operational asymmetry. It was this reality that led Colin Telmer and I to

signal the emergence of North American region states (1998).

Several important implications flow from this development. First, Quebec's economic future is clearly in NAFTA economic space, not Canadian economic space. Compared to the province's trade dependence on the rest of Canada in 1995, let alone 1980, the economic costs of further loosening economic ties with the rest of Canada are now much reduced. (By way of maintaining perspective, the later analysis will also argue that the benefits of independence are also reduced).

Second, as north-south trade integration heightens, all provinces will become increasingly tolerant of Quebec's nationalist vision of its role in the federation, since they too will want greater degrees of policy freedom. The best example here is that the "Alberta Advantage" slogan (which promises that this province will have the lowest tax rates in NAFTA, let alone in Canada) is giving way in some Alberta quarters to a "firewall" vision of Alberta-Canada relations. In a sense, therefore, the earlier-noted, post-Charter focus on symmetry as a philosophical goal of Canadian federalism has been trumped by the provincial/regional realities of North American trade integration. Phrased differently, this may be the international (NAFTA) economic reality underpinning the domestic politics of the 1998 Calgary Declaration.

The third implication is more troublesome. The provinces have become so dependent on NAFTA trade they can effectively be held hostage to interruptions in their access to the US market. And because provincial policies can and do differ widely, these border interruptions may affect the individual provinces differently (e.g. softwood lumber affects B.C. and New Brunswick quite differently), which in turn severely complicates national policy. Arguably, the Council of the Federation (COF) could play a most useful role in aggregating provincial interests in such situations. Ottawa should welcome having this pan-provincial body make

the initial attempt to wrestle with issues that frequently play very differently, if not in a zero-sum manner, across the various provinces.

Fourth, it would seem to follow from the above observations that many provinces would eagerly trade off some of their power in the Ottawa corridors for more influence in Washington. This is reflected in the several proposals for broadening and deepening NAFTA. Relatedly, most of the provinces participate in Canada-US associations of heads of government. Indeed, Quebec is a member of two of these – with New England Governors and Maritime Premiers and with Ontario and the Great Lakes Governors. Others have Memoranda of Understandings (MOUs) with their cross-border states – the Alberta-Montana MOU, for example. Arguably, along the lines of Wolfe (2003), Blank (2002) and my own work (2003b), these represent attempts to broaden and deepen NAFTA *from the bottom up*, as it were – to “democratize” North American integration by bringing the states and provinces more fully into the operations of NAFTA.

North American trade integration is only one of the forces that is forging new Quebec-Canada and Quebec-North America economic linkages. Attention now turns to two other forces – the advent of the KBE and the associated rise of global city regions.

### **B: Quebec and the Knowledge-Based Economy (KBE)**

The advent of the knowledge-information revolution will privilege human capital in much the same way that the Industrial Revolution privileged physical capital. Indeed, knowledge and human capital are now at the forefront in terms of the core policy objectives – competitiveness and wealth creation; achieving acceptable income distribution; and enhancing living standards. In terms of the latter Lester Thurow (1993) is eminently quotable: “If capital is borrowable, raw materials are buyable and technology is copyable, what are you left with if you want to run a high-wage economy? Only skills, there isn’t anything else.” While this is

an exciting development in its own right since it puts citizens and their human capital development centre-stage in terms of both economic and social policy, it is also fundamental to the evolution of Quebec-Canada relations since the constitutional powers needed to pursue a citizen-first policy are largely *provincial powers*. Indeed, this was the core of my message (1991) to the Bélanger-Campeau Commission, namely that in light of the fact that many of the policy levers traditionally associated with national sovereignty are now being incorporated in trade agreements (tariffs, trade policy and aspects of regulatory policy) or driven by global best practice (monetary policy),

“... citizens will increasingly view “sovereignty” as the ability to have some influence on how they live and work and play. One can argue whether or not the level of government to deliver this is the provincial government or the local government but, under our federal system, it is clearly *not* the national government. Indeed, will there be much left of sovereignty in the millennium other than “distinct societies?” (*The Community of the Canadas*, 1991, 11).

I then added that after a further decade of north-south integration, the rest of Canada would be profoundly indifferent in terms of Quebec’s choice of policy instruments, an assertion that has resonance with the later Calgary Declaration.

In more general terms, the central implication arising from the KBE in terms of achieving meaningful sovereignty in the information era is that the KBE significantly increases the role of those powers that lie in provincial jurisdiction. (Note that this is not the same as saying that the KBE enhances the powers of the provinces, as the subsequent analysis makes clear). While it would not be correct to say that Quebec is now indifferent about acquiring new powers (e.g. the province would obviously like greater room to manoeuvre in terms of negotiating trade and cultural agreements), the fact is that under the KBE *sovereignty will be more about exercising*

*existing provincial powers than acquiring further powers.* Moreover, the interaction between language and culture on the one hand and human capital development on the other is sufficiently close that Quebec will be able to play a larger role in the human capital development of its citizens than will be the case for any other province. In other words, language provides an environment within which Quebec will have more room to “policy determine” its KBE future. Or in terms of sovereignty, the emergence of the KBE allows Quebec to move toward a fuller nationhood *within* the Canadian state.

From this follows an even more important corollary: the *key to Quebec’s future in the Canadian state lies in gaining access to revenues sufficient to make use of its existing powers.* Hence, Quebec’s rallying call has, appropriately, shifted from “more powers” to “more access to revenues.” Small wonder then that restoring fiscal balance in the federation is Quebec’s foremost priority. And for somewhat similar reasons (see below), this is also the number one priority of the other nine provinces as well.

### **C: Global City Regions (GCRs)**

Global city regions (Toronto, Montreal, Vancouver, Calgary/Edmonton ...) are emerging as the dynamic economic motors of the knowledge/information era (Courchene, 2000). This is so in large part because these GCRs are home to dense concentrations of knowledge and human capital networks (health, bio-sciences, R and D, universities, corporate services, cultural, etc.). Following Harris (2002), Canada’s future in terms of productivity growth and living standards will depend on how well our GCRs will fare against US and international GCRs.

The complicating issue here is the following. On the one hand, cities are constitutionless – they are the creatures of the provinces. On the other hand, with their economic and political star in ascendancy the GCRs want to become more fully and more formally integrated into the system of intergovernmental relations and fiscal

federalism. Intriguingly, the provinces, despite their constitutional supremacy over cities, find themselves in a dilemma of sorts. Either they cater to the demands of the cities for greater autonomy, financial flexibility and infrastructure (rights that many international GCRs already have) or the cities will band together and pressure the federal government to satisfy these demands. Actually, there is, in principle at least, a third option, namely that the GCRs can aspire to become “city provinces,” like the city-Länder of Germany (Berlin, Bremen and Hamburg). The power of the GCRs is such that they *will* play a more important political, economic and even jurisdictional role in the Canadian federation, the only issue is *how* they will play this role and how this will impact on the various provinces.

Up to this point, the lens for viewing the implications of the KBE has been a provincial lens. But Ottawa is much more than a spectator in all of this. Indeed, it is actively engaged in finding ways that it, too, can get access to the policy levers that deal with cities and citizens. Enter “hourglass federalism.”

### **D: KBE Intergovernmental Relations: Hourglass Federalism**

It did not take the federal government long to realize that nation-building and electoral saleability in the KBE is not about old-style resource-intensive mega projects but, rather, has everything to do with citizens’ issues – education, health, training and the like. Indeed, and as already noted, with knowledge at the cutting edge of competitiveness, investment in education/skills and human capital generally holds the key to competitiveness and cohesion alike, both of which are of obvious interest to central governments of all nation states, federal or unitary. And since the performance of Canada’s cities, especially the GCRs, will determine productivity growth and living standards, this too comes into Ottawa’s sights.

Cast in this light, it is clear that politically, economically and electorally these policy areas are far too important to be rendered off-limits to

Ottawa by whatever the Constitution may or may not say. So the operational objective for Ottawa becomes one of finding convenient avenues and processes by which it can interact directly with cities and citizens. Not only did Ottawa find a way to do this, but it did so in such a manner that cities and citizens alike welcomed the federal intervention.

In a recent article (2004), I have called this *hourglass federalism*, namely Ottawa's use of the spending power and other measures to privilege cities and citizens, leaving the provinces increasingly as the squeezed middle of the division-of-powers hourglass.

Hourglass federalism evolved in the following manner. First, to make room for these new areas on the policy agenda, Ottawa transferred aspects of last-paradigm's nation building (forestry, mining, tourism, fishing and energy) to the provinces. Second, Ottawa got its fiscal house in order in large measure by downloading its deficit to the provinces. The key initiatives here were the massive CHST cuts contained in Paul Martin's 1995 budget. Third, while these cuts were viewed by most analysts as cuts to health transfers, they had precisely the opposite effect. Since health was at the very top of all the provinces' priority list, it simply could not be cut. What happened in all provinces is that funds were directed from here, there and everywhere to sustain, indeed increase, health-care spending. Fourth, the result is that medicare is accounting for over 40% of program spending for many provinces and still rising, while spending on most other areas is declining. Fifth, this has opened the way for Ottawa to go *around the provinces* and to deal directly with these cash-starved areas, whether relating to citizens (millennium fellowships, Canada Research Chairs, the Canada Child Tax Benefit, early child development, etc.) or to cities (the GST exemption and the promise of a share of the federal sales tax). In passing, it is appropriate to note that Canadians may well be very happy with hourglass federalism, i.e. with the federal government playing a more active role in a variety of areas falling under provincial

jurisdictions. While this is an important observation it is somewhat aside from the issue at hand.

Intriguingly, the provinces are well and truly trapped by hourglass federalism. As medicare budgets inexorably approach 50% of program spending the provinces will have to dip deeper and broader into existing spending levels of other policy areas. There would appear to be only three ways for the provinces to extricate themselves from this dilemma. One way is to *upload* aspects of medicare to Ottawa. A second is to *download* medicare to citizens (via privatization/de-listing or by imposing dedicated taxes/premiums, with Ontario doing both in its 2004 budget). The third is for Ottawa to address the vertical fiscal balance in the federation (i.e., to provide the provinces with funds sufficient to maintain medicare at sustainable levels, consistent with addressing their other expenditure responsibilities).

Enter the July 2004 APC/Council of the Federation in Niagara-on-the-Lake. In a move described by Ralph Klein as a "brilliant strategy" and one that caught all Canadians by surprise, the premiers unanimously proposed to upload (i.e. to turn over responsibility for) pharmacare to the federal government. At one level this makes eminent sense since Ottawa controls drug patent laws (e.g., the length of time before a generic version of a drug can come on the market) and it is Ottawa that oversees drug testing/drug approvals, all of which have a major influence on the cost of drugs and, therefore, complicate provincial responsibility for prescription drugs. Moreover, Prime Minister Martin campaigned for a national pharmacare program as the next major step in the evolution of medicare so that at another level this provides a way for Martin to create such a national program. The APC/COF proposal will feed into the long-anticipated FMM (first ministers' meeting) on health care scheduled for September 13-15, 2004.

However, this FMM will have an impact well beyond the financial evolution of medicare

because many of the economic, political and jurisdictional issues highlighted in the above analysis will also feed into this health care summit. Indeed, so much is at stake here that the FMM promises to be one of the signal societal events in terms of determining the evolution of Quebec-Canada relations. As such, a brief assessment of the role of the FMM in the context of the above analysis will constitute the concluding section of the paper. As prelude to this exercise in societal *real politik*, the following section draws out some *analytical* observations arising from marrying the foregoing Quebec-Canada economic and political inquiries with an eye toward suggesting new opportunities or dynamics for Quebec-Canada relations.

### **V: Quebec-Canada Dynamics in Century 21**

The quarter century following the first Quebec Referendum has been both politically tumultuous and societally transformative for Canada and Quebec alike. In terms of the most fundamental issue, namely Quebec sovereignty, the associated political tumult has been indelibly etched into the consciousness of all Canadians. But the transformation of the sovereignty issue over time has been far-reaching. At the level of *vox populi* the following oversimplification nonetheless carries much truth. In the 1980 Referendum, Quebecers may have had the political will to assume nation-state status but the underlying economics were not on side. In the current time frame, the economics of an independent Quebec within NAFTA economic space are clearly more feasible but the benefits associated with statehood are now deemed to have diminished. Phrased differently, under the former paradigm states created nations, as it were. In the knowledge/human-capital era nations can thrive within states – Catalonia is probably the best example of such a “stateless nation.” Facilitating this transformation in Quebec’s case is the two-fold reality: a) Canada is a very decentralized federation in terms of the constitutional powers of sub-national governments<sup>2</sup> and b) these are more or less the powers that are linked to “nationhood” in the information era. Arguably, therefore, the

essence of the “Quebec issue” in the 21<sup>st</sup> century has become one of enabling the province to become a full nation within the framework of the Canadian state.

However, allowing Quebec to become a full nation within Canada was a non-starter in the inter-referenda (1980-1995) era. The key difference today is that the rest of Canada has also undergone complex transformative change. Fundamental to this transformation has been the dramatic relative shift from a domestic, east-west trading axis to a cross-border, north-south trading axis, with the consequent policy decentralization and asymmetry across the provinces. And along the way this provincial policy asymmetry, best exemplified by the “Alberta Advantage,” paved the way for the *Calgary Declaration* and SUFA and the associated increased tolerance and even formal recognition of the ability of Quebec (and other provinces) to tailor their powers to the needs/aspirations of their citizens.

This coming together of provincial interests led to the creation of the Council of the Federation (COF) as the overarching institution embodying pan-Canadian provincialism. Among its first initiatives, and certainly its first priority, was to forge a common front around the issue of VFI (vertical fiscal imbalance). That VFI should be the rallying cry for the 21<sup>st</sup> century Quebec is rather obvious, given the earlier assertion that the key to KBE nationhood rests, by and large, with Quebec’s existing powers and given also the requisite corollary that Quebec needs to have access to adequate revenues in order to exercise these powers. For reasons of political and fiscal autonomy (as distinct from “nationhood”), the other provinces have also fully endorsed the VFI thrust.

Unfortunately for the provinces, Ottawa has undergone its own transformation. With many of its erstwhile nation-building policy levers circumscribed by international agreements (tariffs, trade policy and NAFTA) or by international best practice (inflation targeting by the Bank of Canada), it too has discovered that

the key to electability and nation-building in the KBE is to become a player in the provincial-powers game. The form that this has taken has been referred to above as hourglass federalism – fiscally starving the provinces in the sense that they have to divert discretionary spending from everywhere to feed the voracious appetite of medicare, so much so that citizens and cities are welcoming of any and all federal spending initiatives directed toward them. Not only is hourglass federalism another name for VFI, but it is VFI *with a purpose*, as it were, so that Ottawa will not willingly unwind it. This is clear from Martin’s medicare proposal which admittedly does move Ottawa’s share of medicare funding toward the provincial target of 25%, but does so in a manner that would commit the provinces to embark on several new and costly initiatives, i.e. in a manner that does *not* let the provinces escape from hourglass federalism.

What is clear from this brief résumé of the earlier analysis is that to an intriguing degree the political, ideological, fiscal, and jurisdictional/constitutional factors likely to play determining roles in the evolution of Quebec are being funnelled into the September FMM on health care. And other provinces are bringing some of their own issues to the bargaining table, e.g. regional/equalization issues. While recognized as a defining moment for Paul Martin’s minority government, the reality is that the FMM is about competing visions of Canada and as such may well turn out to be one of the defining moments for the evolution of Canada. Elaborating on just what is likely to be at stake in the FMM and how it may influence the future of Quebec-Canada relations is the subject of the final part of this essay.

## VI: Quebec and the Summit of the Canadas

### A. The Federal Proposal

Drawing from St-Hilaire and Lazar (2004, 118), Prime Minister Martin’s proposal for the September FMM is to “fix medicare for a

generation” to “buy changes” and to “deliver real, measurable progress” by:

- Ensuring stable, predictable long-term funding (\$3 billion over the next 2 years plus automatic increases in the future);
- Implementing a National Waiting Times Reduction Strategy – the “Five in Five” plan (\$4 billion);
- Reforming primary care;
- Creating a National Home Care Program (\$2 billion over 5 years);
- Developing a national strategy for prescription drug care by 2006; and
- Respecting the *Canada Health Act*.

By way of elaboration, the “five in five” plan is to reduce waiting times based on national targets over the next five years in five key areas – cancer, heart, diagnostic imaging, joint replacement and sight restoration. Since all of these five areas are under the provinces’ jurisdiction, the suggested \$4 billion price tag is presumably the federal government’s best guess as to what it will cost to induce the provinces to address these five waiting periods.

### B. The Council of the Federation (COF) Proposals

The COF agenda for the FMM includes pharmacare, opting out for Quebec, VFI, and equalization.

#### *Pharmacare*

The surprise proposal from the COF was, as already noted, the unanimous recommendation to transfer responsibility for pharmacare to the federal government, in part a response to Paul Martin’s call for a “national strategy” for pharmacare (bullet 5 above). In the words of the COF Press Release

[http://www.scics.gc.ca/cinfo04/850098004\\_e.html](http://www.scics.gc.ca/cinfo04/850098004_e.html)):

The federal government already plays a significant role in the management of pharmaceutical drugs in Canada – it is responsible for the approval of drugs for use in Canada and for deciding which drugs are

available by prescription and which over-the-counter. It is responsible for the Patents Act and for the drug plans for Aboriginal peoples, the military, and the RCMP.

Currently, the provinces are spending in the range of \$7 billion while “full coverage” is estimated to be in the \$12 billion range. Note that Martin’s proposals did not include a price tag for his prescription drug care strategy for 2006. Indeed, the cost of pharmacare probably exceeds the total value of annual transfer increases contained in the Martin proposals.

#### *Quebec’s opting out*

Often overlooked in the press coverage of the COF meeting in Niagara-on-the-Lake, but central to the analysis in the present paper, is that the provinces have agreed that Quebec can opt out of the pharmacare plan with compensation. Again in the words of the Press Release: “It is understood that Quebec will maintain its own program and will receive a comparable compensation for the program put in place by the federal government.” This is a remarkable concession, one that builds upon the spirit and the letter of the 1998 *Calgary Declaration* (and also resurrects one of the principles of the Meech Lake Accord). Indeed, it fits squarely in the venerable tradition (pre-Charter) of “opting out” facilitating a “win-win solution” – Quebec is allowed to opt out and advance its “nationhood” agenda, while the rest of the provinces can work with Ottawa to design a mutually acceptable national program which would not have been possible without Quebec’s opting out. Earlier examples are the CPP/QPP compromise and Quebec’s opting for its own separate personal income tax (PIT) system thereby allowing Ottawa and the other provinces to develop a shared PIT which is decentralized yet harmonized.

#### *VFI (vertical fiscal imbalance) and Health Care*

On the larger issue of funding medicare, the provincial position has remained unchanged for some time now: 1) Ottawa should increase its share of funding under the Canada Health Transfer to 25% of total health care spending; 2)

the 25% share should be maintained through time; 3) these funds are to be unconditional; and 4) the premiers added in the recent COF press release “that any new initiatives agreed to at the upcoming FMM will require *additional ongoing* federal dollars [i.e., additional to the 25%, TJC] to cover the costs associated with these initiatives” (Press Release, *op. cit.*, emphasis added).

This COF position on health care financing is in dramatic contrast with Paul Martin’s electoral platform proposals outlined above. Martin is willing to increase cash transfers toward the 25% share, but this is tied to a series of additional requirements (decreasing waiting lists, reforming primary care) and new initiatives (home care, pharmacare). St-Hilaire and Lazar (2004,122) note that the provinces will not likely be willing to take on the attendant cost risks and pressures with the federal proposal:

The idea that provinces should embark on new national health care programs with the federal government only offering the equivalent of seed money and no guarantee of sharing uncertain future costs, as the federal plan proposes, is simply beyond reason. Quebec’s recent experience with \$5 day care and pharmacare certainly illustrates both the fiscal and political risks involved.

It is easy to see why this COF proposal is appealing to the provinces. They escape from the straightjacket of hourglass federalism by passing pharmacare upward and they will receive an unconditional 25% share of the medicare costs. It is equally easy to see why this package may not appeal to Ottawa.

#### *Equalization*

While VFI has top priority for the provinces, the equalization-receiving provinces have rallied all provinces to push for also ameliorating horizontal fiscal imbalance (HFI) across the provinces. As the COF Press Release noted, equalization entitlements to the recipient provinces have been reduced by \$3.7 billion

over the last 3 years. The issue in the context of health care funding is that an infusion of additional federal transfers allocated on an equal per capita basis (as has characterized recent transfer increases) is deemed to be inadequate for the have-not provinces without some corresponding provision for offsetting the decline in formal equalization payments. Accordingly, the COF recommends that “as an immediate measure, total Equalization Program funding should be restored to the 2000-01 level. Because Quebec receives the lion’s share of aggregate equalization payments, this can also be viewed as an issue near and dear to this province. However, linking HFI with VFI will obviously serve to further complicate the September FMM, especially in light of the fact that the equalization program is already reeling under a series of long-standing issues (Courchene, 2004a), let alone the HFI challenges associated with the price of oil at over \$45 per barrel at the time of writing. Hopefully, the HFI issue can be recognized by all parties, but then be split off from the September FMM to be dealt with in a subsequent meeting.

### **C. Private Delivery and the Canada Health Act**

All parties endorse the Canada Health Act, although they do not all embrace the same interpretation of its principles. One controversial issue has to do with interpreting the “public administration” tenet. The 2002 Senate Report’s interpretation and that by Kirby and Keon (2004a, 2004b), which I carried into my own work (2003a), is that “public administration” has to do with *public funding* but then ought to be agnostic as to whether the delivery of services is by the public or private or third sectors. Alberta goes at least this far and Quebec has been here for a while. Indeed, in a rare return to the policy limelight, former Premier Lucien Bouchard suggested recently that private clinics make *le gros bon sens* (plain common sense), which may put him beyond the Kirby/Keon camp and into a parallel private system in some delivery areas (Yakabuski, 2004). On the other hand, Martin will be under

pressure from Jack Layton and the NDP to disallow the spread of private delivery of any sort. Martin could also argue that, given the importance of medicare in the campaign, Canadians gave the Liberals a mandate to ensure transformative change along the lines of his platform plank as elaborated above. However, the political reality is such that the only way to ensure that Alberta and Quebec among others would swear off all privatization would be for Ottawa to fully address the VFI issue with unconditional transfers, which is hardly Martin’s position.

### **D. Further Quebec Issues**

No doubt there are a variety of other issues that will be raised by the provinces and Ottawa at the September summit. Since the focus here is this essay is on Quebec, there are two further issues that this province will bring to the table. The first relates to the recommendations of Quebec’s *Séguin Commission*, namely that Ottawa convert its cash transfers to tax point transfers and, in particular, that it transfer the GST to the provinces. This is unlikely to fly (although it might find support from other provinces), but it will nonetheless be part of the Quebec position. However, were pharmacare to be transferred to Ottawa, Quebec might have more success arguing that its opting out with compensation should take the form of tax transfers rather than cash transfers.

The second derives from Quebec’s long-standing view that it will not allow the federal government to regulate, legislate or otherwise dictate in areas of Quebec’s constitutional jurisdiction. This is what Quebec nationhood within the Canadian state is all about.

### **E. Analysis**

While the politics, process and policy associated with the FMM are probably in the nature of a seamless web, it seems appropriate to deal with each separately, at least initially.

*Politics*



The view of many in the chattering classes seems to be that none of the federal parties wants to face the voters for a while so that Liberal minority government is unlikely to be brought down as a result of the outcome, or non-outcome as the case may be, of the FMM. This reasoning seems faulty on two fronts. First, a Parliamentary defeat of the Martin government in the immediate aftermath of the FMM, denying him confidence on the Throne speech might not trigger an election. Rather the Governor General could, arguably, invite Stephen Harper to try to form a government. In other words, while Canadians may well want minority government to work and may well be willing to punish those parties that pull the electoral plug, this is quite different from saying that Canadians want a *Liberal* minority government. Hence, Paul Martin will need to ensure that the outcome of the FMM finds some resonance with either or both the Conservatives or the BQ.

The second point is that the politics enveloping the FMM obviously transcends federal politics. Given the perspective of this essay, the politics of Canada-Quebec relations will also be in play. The combination of the Sponsorship scandal (including the downplaying of the Chrétien wing of the Liberal Party) and the resurgence of the BQ (including its potential balance-of-power role in the Commons) has left the federalist forces in Quebec in a very weak position. In this environment, it would be foolhardy on Ottawa's part (i.e. on the part of the federalist parties in the House of Commons) to leave Charest high and dry in terms of the outcome of the FMM. His position in Quebec will be weakened considerably unless he emerges from the summit with meaningful progress on the VFI front and with minimal infringement on Quebec's ability to legislate on the medicare front.

What thus emerges as most problematic on the political front is how the Liberals can meet their electoral commitment of buying new programs and commitments from the provinces with an increase in transfers that is arguably *less*

than that required to address the 25% Romanow target. The NDP and a goodly number of Canadians will attempt not only to hold the Liberals to their campaign proposal but perhaps as well to embrace the COF proposal that Ottawa launch a national prescription-drug program. But Martin's proposal seems to fall way short of what the provinces will settle for and what the Conservatives and BQ will support.

All in all, a daunting challenge.

#### *Process*

My comment on process is contained in a single word – SUFA. If Prime Minister Martin wants to play in areas of exclusive provincial jurisdiction, then SUFA or a SUFA-equivalent approach is the agreed-upon process. SUFA involves, *inter alia*, federal-provincial co-determination in terms of program design, provincial flexibility in terms of implementation, and combined federal-provincial monitoring and oversight. Moreover, SUFA is arguably flexible enough to accommodate the opting-out-with-compensation for Quebec (as embodied in the COF pharmacare proposal).

As already noted, the 2000 and 2003 health accords were viewed by Ottawa as buying “change,” whereas the provinces simply presumed the transfers to be unconditional independent of the “accord.” This will happen in 2004 as well if the federal government does not work through a SUFA or SUFA-equivalent process.

While process and a flair for the political are necessary ingredients for a successful FMM, substance and policy must be centre-stage.

#### *Policy*

An appropriate launch point for an analysis of the range of choices facing the first ministers is to focus on that which is “new” to federal-provincial health care meetings, namely the COF proposal with respect to pharmacare. Earlier, this proposal was viewed as a masterstroke on the part of the provinces since it allows them to

escape from the hourglass-federalism straightjacket. Yet this proposal should, in principle, also be eagerly welcomed by Ottawa because it presents the federal government with the right to deal directly with Canadians in ways that heretofore it could not do, it also expands the scope of Canadian medicare in ways in which the Liberals themselves called for in their election platform, and it increases the degrees of freedom that Ottawa has in negotiating with the provinces.

Ottawa's initial reaction to the COF pharamacare proposal appears to be one of backing away from rather than embracing it. Even accepting that the cost side might pose problems for Ottawa, this decision summarily discards several creative options. Consider, initially, the following option:

- Ottawa accepts responsibility for pharmacare, commencing with a takeover of a standardized version of existing provincial programs;
- it maintains existing funding levels for the rest of the system; and
- it agrees to index the existing transfers (either to inflation or to the growth of medicare expenditures) in turn for a SUFA-type agreement to get joint input into standards, etc., where this joint input into standards would now include pharmacare.

While this would not address the letter of the Liberal proposal, it would nonetheless score high points in an important number of key areas – it expands medicare into an important area; it takes a huge medicare cost-driver off the provinces' books; by maintaining the existing level of transfers (indexed), it satisfactorily addresses the VFI; and it offers scope for some mutually-agreeable commitments on issues like waiting lists, etc. It seems that Alberta and Quebec (and arguably the BQ and Conservatives respectively) would be on side, and most of the rest of the provinces could probably be finessed with an equalization commitment (which would be negotiated at a

later date). Finally, the long-standing jurisdictional quagmire surrounding medicare would be rationalized by dividing up the policy area.

The specific example is not intended to serve as a preferred outcome. Rather it is meant to suggest that throwing pharmacare into the hopper substantially increases the degrees of policy freedom. Consider some other options:

- Ottawa takes over pharmacare for the elderly;
- Ottawa takes over pharamacare for the elderly and the children;
- Ottawa takes over either one of the above two but does so in the context of income-tested, catastrophic coverage, run through the federal personal income tax system;
- Ottawa takes over pharmacare but only on a catastrophic basis;

All of these options could be combined with the status quo in terms of existing CHA transfers (as in the original example). The focus on the elderly and the children is deliberate because Ottawa now plays the key role in terms of their income support (e.g., OAS/GIS for the elderly and the CCTB for the children), so that responsibility for some version of pharmacare would not constitute a huge departure in terms of the federal mission.

If, however, Ottawa rejects the creative COF pharmacare proposal, then forging a package acceptable to the provinces becomes much more difficult, because the formal Liberal proposal would certainly not be acceptable to the four largest provinces and perhaps not to the remaining six either. The earlier quotation from St-Hilaire indicates why this is so. From the provinces vantage point, the minimum acceptable package (absent the pharmacare option) would seem to be a move to a 25% unconditional funding share. Buying new provincial programs/commitments would be possible only with additional transfers (i.e.,

beyond the 25% share), and again run through some SUFA-like process.

One major disadvantage of this latter strategy is that it continues to increase the magnitude of federal transfers that are directed to areas of provincial jurisdiction. Even with a SUFA agreement in place it will become progressively easier for the provinces to harbour the view of a vertical fiscal balance, since one (not the only) definition of an increasing VFI is increasing federal spending/transfers directed to areas of exclusive provincial jurisdiction. The advantage of the various pharmacare options is that aspects of prescription drugs would in effect henceforth come under *federal jurisdiction*.

Two final observations are in order. The first is that Ottawa could stand its ground and drive home a take-it-or-leave-it deal, based on some version of its initial proposal. From a fiscal standpoint, the provinces would probably take the offer but, led by Alberta they would embark on a privatization process. The second focusses on the other extreme. If one adds up all of Martin's commitments, they may well overextend Ottawa's fiscal capacity. Since deficits are presumably out of the question, tax hikes are not beyond the pale as a way to finesse this fiscal dilemma.

By way of a few concluding comments it is appropriate to return to the theme of Quebec-Canada relations. The thesis of this essay is that Quebec's demands have shifted from acquiring greater powers to acquiring greater revenues (preferably taxes) so as to be able to exercise fully its existing powers. Far and away the most exciting recent development in this area has been the formal recognition of Quebec's "distinct society" priority in the context of the COF pharmacare proposal. (Presumably this same opting-out-with-compensation provision will apply to any provincial consensus relating to how Ottawa would transfer additional revenues to the cities.) The very existence of this provincial acceptance of Quebec's specificity makes it progressively more difficult for Ottawa not to follow suit. Yet the obvious

complication here is that Paul Martin has already indicated that the three priorities in the fall *Speech from the Throne* will be medicare, early childhood development and cities. All are viewed by Quebec as under its jurisdiction and essential to its future in Canada.

These, then, are the opportunities and constraints that comprise the new dynamics in Quebec-Canada relations. The good news is that Quebec appears nearer than ever to assuming the mantle of a 21<sup>st</sup> century nation within the framework of the Canadian state. Yet, were this avenue for whatever reason to become blocked, Quebec may well revert back to seeking its future as its own nation state. In this sense, and also because medicare, vertical and horizontal fiscal balance, and the division of powers are all in play, the September 2004 FMM is indeed a Summit of the Canadas.

## Endnotes

This paper is adapted from a presentation at a conference entitled “Quebec and Canada in the New Century: New Dynamics, New Opportunities,” hosted in October-November 2003 by the Institute for Intergovernmental Relations.

1. Aspects of this section draw from Lawrence Martin (1997).
2. It is also the case that Canada probably ranks as the more centralized federation in terms of the influence of the provinces in the operations of the central governments. Indeed, it is the provinces lack of influence at the centre that contributes to the need for regional/provincial interests to be exercised by the provinces.

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