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TITLE OF THESIS/TITRE DE LA THÈSE CANADIAN FEDERALISM AND THE INTERNATIONAL ACTIVITIES OF  
THREE PROVINCES: ALBERTA, ONTARIO AND QUEBEC

UNIVERSITY/UNIVERSITÉ SIMON FRASER UNIVERSITY

DEGREE FOR WHICH THESIS WAS PRESENTED/  
GRADE POUR LEQUEL CETTE THÈSE FUT PRÉSENTÉE MASTER OF ARTS

YEAR THIS DEGREE CONFERRED/ANNÉE D'OBTENTION DE CE GRADE 1980

NAME OF SUPERVISOR/NOM DU DIRECTEUR DE THÈSE Dr. JACQUES BENJAMIN

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CANADIAN FEDERALISM  
AND THE INTERNATIONAL ACTIVITIES OF THREE PROVINCES:  
ALBERTA, ONTARIO, AND QUEBEC

by

Bonni Raines Kettner

B.A., Simon Fraser University, 1977

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF ARTS  
in the Department  
of  
Political Science

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SIMON FRASER UNIVERSITY

February 1980

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Activities of Three Provinces: Alberta,  
Ontario, and Québec.

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## ABSTRACT

This thesis examines provincial involvement in international affairs as a problem in Canadian federalism. The international activities of the provinces raise issues in domestic and international law, as well as political culture. The provinces have undertaken extensive external activities during the last two decades, as more issues under provincial jurisdiction fell within the ambit of international affairs. The provincial belief that the federal government cannot effectively serve their growing international interests has been the major factor in the expansion of their roles.

As jurisdiction over international affairs is an essential attribute of a sovereign state, a province can never enjoy a full international personality. If provinces are to remain autonomous within their fields of jurisdiction however, they must be able to pursue the international aspects of their responsibilities. Some means must be found, if federalism is not to fail, to allow regional expression on the international scene without compromising the sovereignty of the state.

The extent to which Canadian federalism permits provincial international expression is a function of both legal constraints and political culture factors. Two complementary methodologies have been used in the thesis to explore the nature and range of the international roles of Alberta, Ontario

and Quebec. The institutional and legal constraints on provincial behaviour have been related to the actual distribution of powers in foreign affairs. The political culture analysis has been focused on the socio-political forces underlying the Canadian federal structure, specifically economic regionalism and French Canadian nationalism.

The Canadian federal system has not provided clear guidelines for provincial international roles. Where a dispute has arisen over a provincial initiative, it has been resolved on an individual basis between the province and the federal government, without setting a binding precedent. While Alberta and Ontario have been able to expand their international roles largely unhindered however, the federal government has sought to prevent Quebec from achieving a special status, and to minimize the province's role.

There are few significant differences however, in the range and level of the international activities of the three provinces. Quebec places greater emphasis on cultural relations and Alberta and Ontario on economic ones, and all three conduct comparable administrative relations. They all behave as pressure groups vis-a-vis the federal government, as well as independent actors. The Canadian federal system has permitted each province to play a decisive role in defining and pursuing its international interests to the extent that it has not conflicted with the goals of the federal government.

V

## ACKNOWLEDGEMENTS

I wish to extend special and sincere thanks to Dr. Jacques Benjamin, who, as my senior supervisor, offered guidance and valuable criticism.

The interest and encouragement of Dr. F. Q. Quo and Dr. Art Goddard throughout my studies is gratefully acknowledged. I would also like to thank all the professors in the Political Science department under whom I studied for their challenging and stimulating courses.

Special thanks are given Ms. Jill Hightower for her help and friendship during the program. I am also grateful for the support of my husband, Paul, and friends Debbi Fedorak, Richard Skoczylas, and Bobby Weimaraner.

Finally, I wish to extend love and thanks to my parents, Marke and Eunice Raines, to whom this thesis is dedicated.



## TABLE OF CONTENTS

APPROVAL PAGE .....	ii
ABSTRACT .....	iii
ACKNOWLEDGEMENTS .....	v
Chapter	
I. INTRODUCTION .....	1
The provinces as international actors .....	2
The methodologies .....	4
Footnotes to Chapter I .....	11
II. THEORETICAL AND LEGAL CONCERNS .....	12
Federal theory .....	13
International law .....	17
Convention on the Law of Treaties .....	21
The world's federations .....	23
Labor Conventions case .....	26
Columbia River Treaty .....	30
Canadian constitutional debate .....	32
The 1960's and the province of Quebec .....	39
Legal parameters .....	44
Footnotes to Chapter II .....	45
III. INTERNATIONAL ACTIVITIES, IN THE 1970's .....	50
Theoretical frameworks .....	50
Canada's decentralized federal system .....	61
International economic ties .....	63
Provincial offices abroad .....	73
'Information Flow' program .....	78
G.A.T.T. and provincial participation .....	79
F.I.R.A. and provincial objections .....	81
Canada-U.S. Automotive Agreement .....	82
Quebec and international organizations .....	84
The provinces and international trade .....	85
Quebec and the A.C.C.T. .....	93
Provincial administrative relations .....	100
Institutionalization .....	104
Summary .....	109
Footnotes to Chapter III .....	112

IV. POLITICAL CULTURE AND INTERGOVERNMENTAL RELATIONS	119
Regionalism in Canada	119
Provincial approaches to foreign affairs	122
The national interest	127
Symmetry and asymmetry	130
Federal-provincial relations	134
Changes in Quebec's political culture	154
Canada and the Francophonie	159
The role of France	160
Summary	163
Footnotes to Chapter IV	165
V. CONCLUSION	169
Legal background	170
International roles	173
Political culture	177
The methodologies in review	181
Comparing provincial roles	182
SOURCES CONSULTED	184

## Chapter I

## INTRODUCTION

The Canadian provinces have historically been involved in external relations, but only since the 1960's has the pattern of their involvement changed significantly. The dramatic introduction of the province of Quebec to the world stage was accompanied, particularly in the 1970's, by the rapidly increasing involvement of all provinces in a wide range of foreign relations. Provincial roles in foreign affairs have expanded into a complex series of relations at all diplomatic levels, involving greater and lesser degrees of federal supervision. Among political scientists, the analysis of the international roles of the provinces has only begun. While the factors contributing to the trend are complex, one could argue that they essentially relate to the provincial belief that the federal government cannot effectively serve their growing international interests.

The question of provincial involvement in international affairs is interesting in the legal and political issues it raises concerning Canadian federalism. While such roles have been a limited source of conflict since the 1960's, the hazy legal and cultural guidelines for such behaviour often lead to federal-provincial disputes.

The jurisdictional dispute is no longer high-profile in the 1970's. Since 1968, constitutional conferences have barely raised the matter. What has happened instead has been the negotiation of complex arrangements between the federal and provincial governments as each issue has risen. Where provincial initiatives have created federal-provincial tensions, they have been resolved on an individual basis between each province and the federal government. Thus, unique arrangements exist between the province of Quebec and the federal government concerning immigration, and between the provinces of Alberta, Ontario and the federal government regarding the Canadian embassy in Washington.

Rather than falling into a constitutional framework, or even setting binding precedents for future actions, these arrangements are the result of bargaining over specific limited issues. Federal-provincial relations are therefore important for establishing the limits to each province's international role. Provincial roles have developed to encompass vast areas of provincial administrative, cultural and economic interests.

This thesis will outline the range of these activities of three provinces, and explain the differences among the provinces in the roles they attempt to undertake and the reaction of the federal government to each of them.

In the past twenty years, the provinces have found an increasing need to be involved in international relations.

Without looking beyond Canada's borders, their interests can no longer be served adequately. The changing nature of international relations to include matters under provincial authority has been a vital factor in this trend. As the provinces increasingly see themselves as responsible in the public eye for the economic and cultural welfare of their citizens, they are increasingly concerned with international ties in trade, education, culture and administration. As Canada's foreign policy in areas such as international trade has a direct bearing on provincial policies, provincial concern naturally extends to a role in the federal policy-making process.

The federal government has not been able to meet these growing provincial needs, primarily because of their specialized and demanding nature within each province. The federal government lacks the know-how and the resources to deal with each province's specific international requirements. As well, Canada's fragmented political culture and economic diversity has meant that federal policies benefitting one section of the nation are often of little interest or are even conflictual with another section. The 'neglected' provinces increasingly tend to take matters into their own hands.

While the international and Canadian circumstances strongly influence provinces to act internationally, they may not act without inhibition in foreign affairs matters. The boundaries of acceptable provincial activity are defined not only by legal questions of sovereignty, but by the attitudes and relations of

the provinces and the federal government. What a province can and cannot do internationally has its legal as well as cultural limits. These questions relate to the nature of Canadian federalism, and the legal context as well as the political culture background it provides for provincial international roles.

This analysis of provincial foreign involvement will utilize two complementary methodologies. The institutional approach of K. C. Wheare is concerned with the operation of the federal principle with regard to foreign affairs issues. This principle of federalism refers to the autonomy of the two levels of government within their spheres of jurisdiction. One is here concerned with the actual distribution of power in foreign affairs resulting from the bargaining of political actors with political resources against a legal backdrop.

The legal-institutional analysis will first consider foreign affairs activity as a jurisdictional dispute. International affairs jurisdiction poses specific problems of federal political systems. The division of powers between two levels of government in accordance with the federal principle conflicts with the international legal system of sovereign states. If the central government in a federation assumes all international powers, it must infringe on the authority of the regional governments. On the other hand, if the regional governments seek full international expression, the state will cease to be a single unit, and will become a confederation of independent

states. The Canadian system has maintained an uneasy balance between these extremes, with exclusive federal official control on the one hand, and extensive unofficial provincial activity on the other. The explanation for this state of affairs lies in Canada's unique position among the world's federations. First, the present distribution of powers in international affairs developed in a constitutional vacuum, and the jurisdictional dispute is yet to be resolved. Second, the regional forces in the Canadian federation far outweigh the centralizing ones.

The international relations of the provinces are rarely a matter of legal and binding nature. Nevertheless, the international and Canadian legal framework does establish the context for present provincial activity abroad. As Richard Simeon indicates, the institutional and constitutional arrangements ". . . provide some of the basic parameters within which the decision-makers operate. They provide both constraints on behaviour and opportunities which can be exploited."<sup>1</sup>

The history of provincial involvement in foreign affairs also contributes to establishing the context for present-day activities. While provincial roles in the past have, for the most part been limited, provincial agents-general have been sent abroad since the beginning of Confederation. The Columbia River Treaty is one example of a province's strong influence on federal foreign policy-making, but it stands out as an isolated incident. The dispute in the 1960's between the

federal government and Quebec over provincial competence in international treaty-making, attendance and membership in international organizations and conferences set the tone for the 1970's in several ways. The federal government during this period staked out a position on provincial roles abroad from which it has not deviated. It elaborated a legal position on its jurisdiction which was exclusive of provincial authority, but which called for provincial participation. Additionally, the federal government established a highly competitive relationship with the province of Quebec, and continued its intense wariness of that province's intentions and activities into the 1970's.

The federal government's continued insistence on exclusive official jurisdictional control over foreign affairs was responsible to some extent for the provincial pursuit of their activities on a less than official basis. Quebec alone has maintained a concern for developing a more official role. While no comprehensive theory of provincial international activities exists, the variables of G. Morris, P. Painchaud and R. Johannson will be used to explore the behaviour of three Canadian provinces on the international scene. Their activities will be classified according to the available typology by subject matter, degree of formality, the nature of federal supervision and the extent to which the provinces have institutionalized their activities. Not only have the three provinces chosen, Alberta, Quebec and Ontario, been more noted for such activity,



but they represent three of Canada's main regions. Alberta is the most powerful of the prairie provinces and represents the west's new economic power, while Ontario is the core of traditionally dominant central Canada, and Quebec the homeland of the French Canadians.

The second methodology allows for an analysis of federal foreign affairs issues ". . . concerned with many other problems than those of a legal nature."<sup>2</sup> The concept of political culture as developed by G. Almond and S. Verba, and developed as an approach to the study of federalism by W. S. Livingston and C. Tarlton among others, will serve this purpose. Political culture, or "specifically political orientations"<sup>3</sup> depicts the nature of a society's relationship to its political system. This includes perceptions of the important elements of a political system and of the rules of the game, all learned through a process of political socialization. Livingston used political culture in determining the essential nature of federalism, which he saw as lying not ". . . in the shadings of legal and constitutional terminology, but in the forces - economic, social, political, cultural - that have made the outward forms of federalism necessary."<sup>4</sup>

In other words, this approach to federal issues involves the analysis of a society's territorially grouped diversities, and the differing political orientations arising from them. Thus the pressures on the institutional structures of federalism as regarding jurisdiction over foreign affairs may be traced to

changes in a federal society. The forces of political culture which give rise to these pressures must be recognized. For this reason, the various values and attitudes towards the roles of both levels of government in the political system, and the orientation of their respective elites, are important. The limits of politically acceptable provincial behaviour are largely a function of these attitudes, which reflect the diverging economic and cultural interests of Canada's regions. The lack of a distinctive Canadian identity, with little suggestion by delegates at the 1969 constitutional conference that ". . . Canada was anything more than the sum of its parts"<sup>5</sup> is commonly recognized. This divisiveness would seem to derive not only from the existence of geographic, economic and cultural regions, but from the channelling of these interests through strong provincial governments.

The basic philosophy of the Canadian federal regime toward the roles of both levels of government and the position of the Francophone minority establishes the context for bargaining over issues. The intra-relations and political cultures of each province, whether consensual or conflictual, will affect its external relations. Federal-provincial relations comprise crucial constraints on the acceptable types of provincial international behaviour. C. Tarlton's concepts of symmetry and asymmetry offer a model for analyzing these relationships, in accordance with his emphasis on the diverse ways in which each member of the federal system relates to the central government.

Because federalism means something different to each member of the system, it follows that "Among the several states in a federal union- cultural, economic, social and political factors combine to produce variations in the symbiotic connection between those states and the system."<sup>6</sup>

Tarlton criticized both Wheare's institutional constitutional approach to federalism and Livingston's socio-cultural approach for their failure to take into account that a federal system may have 'more or less federal parts to it.' Thus the relationship between each member and the central government may be distinctive in many ways. Political culture differences and economic diversity create tensions in different areas between the federal government and each province. The possibility of international support for the international aspirations of a province will also influence the manner in which federal-provincial tensions are resolved.

This thesis will outline the extent of the international relations of the provinces of Quebec, Alberta and Ontario from the perspectives of both federal institutions and political culture. The foreign affairs of the provinces, while not a high-profile federal-provincial issue in the 1970's, does demonstrate the working of the Canadian system under pressure from changing circumstances. The rapidly expanding roles of these three provinces represent a challenge to the federal structure which is being resolved on a piecemeal basis. The extent to which Canadian federalism allows the provinces to

play a decisive role in defining and pursuing their international interests, and the implications of these roles for Canadian unity, will be the subject of this thesis.

<sup>1</sup>Richard Simeon, Federal-Provincial Diplomacy: The Making of Recent Policy in Canada (Toronto: University of Toronto Press, 1972), p. 42.

<sup>2</sup>W. S. Livingston, "A Note on the Nature of Federalism," in P. Meekison, ed. Canadian Federalism: Myth or Reality, 2d ed. (Toronto: Methuen Publications, 1971), p. 21.

<sup>3</sup>G. Almond and S. Verba, The Civic Culture (Toronto: Little, Brown and Co., 1965), p. 12.

<sup>4</sup>Livingston, p. 21.

<sup>5</sup>H. Conway, "Geo-Politics and the Canadian Union," in Ontario Advisory Committee on Confederation Background Papers and Reports, 2 vols. (Ottawa: The Queen's Printer of Ontario, 1970), 2:46.

<sup>6</sup>Charles D. Tarlton, "Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation," The Journal of Politics 27 (November 1965) : 861.

## Chapter II

## THEORETICAL AND LEGAL CONCERNS

The legal basis for a provincial role in international affairs is not easily defined. As Ivan Bernier points out, there exists a ". . . basic incompatibility between international law and federalism . . ."<sup>1</sup> arising from contradictory approaches to the central concept of sovereignty.

Common to all approaches to federalism is a notion of sovereignty which does not correspond with the assumptions of international law. This chapter will explore the possibility in federal theory and international law, of an international role for a member state<sup>2</sup> of a federation. The legal positions of the member states of the world's federations as well as Canadian constitutional arguments will be assessed to illustrate the present and potential legal status of the Canadian provinces.

In the study of federalism, there are many theoretical approaches which emphasize varying characteristics. K. C. Wheare's principle of federalism epitomizes the institutional approach with its emphasis on governmental structure:

By the federal principle I mean the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent.

Carl Friedrich, on the other hand, sees federalism as ". . . a process, an evolving pattern of changing relationships, [not] a static design regulated by firm and unalterable rules."<sup>4</sup> William Riker characterizes federalism as a bargain struck between the forces for diversity and the forces for unity.<sup>5</sup> W. S. Livingston emphasizes the territorially grouped diversities in society which make ". . . the outward forms of federalism necessary."<sup>6</sup> Whichever approach is taken, there is little dispute that for a set of institutions to reflect and protect a federal society, there must be some autonomy given to the diverse regions which could not express themselves under a unitary government.

Thus the scholars seeking to outline conditions necessary for federal government have in common their emphasis on a degree of autonomy for the various regions. Wheare states: "There must be some matter, even if only one matter, which comes under the exclusive control. . . of the general government and something likewise under the regional governments. . ."<sup>7</sup> Ivo Duchacek defines federalism as a territorial division of political authority ". . . between two autonomous sets of separate jurisdiction. . ."<sup>8</sup> Riker's rule of identification for a federal system specifies two levels of government ruling the same people, each level autonomous in at least one area, and the existence of ". . . some guarantee . . . of the autonomy of each government in its own sphere."<sup>9</sup> A. V. Dicey depicts a federal constitution as one ". . . under which the ordinary

powers of sovereignty are elaborately divided. . . ."10 .

Sovereignty in a federal state is therefore seen as divided or is not seen to exist at all in the traditional sense. Friedrich, in outlining the two autonomous sets of jurisdiction in a federal system, states: "No sovereign can exist in a federal system; autonomy and sovereignty exclude each other in such a political order."<sup>11</sup> Daniel Elazar points out that sovereignty in the traditional sense does not apply to federalism:

In this respect, federalism stands in direct contradiction to the . . . theories of national sovereignty which surfaced in sixteenth century Europe. . . which held that political sovereignty was indivisible. . ." 12

While regional autonomy and the absence of a single source of sovereign power form the basis of federal government, the very foundation of classical international law is precisely the sovereign nation-state. As Bernier states, "The two positions are clearly not reconcilable since each constitutes a danger to the other."<sup>13</sup> It is little wonder that international law makes no distinction in terms of obligations, rights and duties between federal and unitary states. André Patry points out that "Aux yeux du droit international classique, l'Etat fédératif est un Etat unitaire largement décentralisé."<sup>14</sup>

Clearly, the changing nature of international relations has produced a dilemma for the federal state. International relations today covers a vast field, as Jacques-Yvan Morin explains:



There is nothing which cannot be made the subject of international law . . . whether the subject be working hours in industry; social security; responsibility of the aerial carrier; health, education or culture; driving licenses; or human rights, treaties today touch all fields. 15

If the regional autonomy essential to federalism is to be maintained, the federal power in external affairs may be curtailed and provisions made for member state activity abroad. The problems raised have found no ready solutions at either the international level or in most federal states. As international relations have altered, however, classical international law has been subject to pressure for change. Wolfgang Friedmann points out that the very purpose of law is to reflect the social order it seeks to regulate. In view of the profound changes of the twentieth century, Friedmann calls for ". . . a far more basic reorientation of our thinking in international law."<sup>16</sup> Annemarie Jacomy-Millette speaks of the same necessity for change in view of the proliferation of actors on the international scene, ranging from international organizations, pressure groups and individuals to federal member states. A new international law system is developing to meet the needs of this ". . . nouvel ordre mondial . . ."<sup>17</sup>

At the level of the federal state, Wheare recognized the difficulty, concluding that clumsy foreign relations may simply be the price to pay for the maintenance of a federal system. While the ideal solution to the problem of ". . . harmonizing the local interests of member states with the duties of the federation as a member of the international community (is). . .

federal state cooperation"<sup>18</sup> the same author notes that such a solution presupposes a high degree of integration uncommon to most federations. The regional diversities which make federalism essential ". . . are factors which produce differences of outlook on foreign relations as well as on internal social and economic organization."<sup>19</sup>

Theories of federalism emphasizing the predominance of the central government in foreign affairs raised no difficulties for federations when the ambit of such activity was very narrow. The ascendant role of the central government in international affairs is as much a part of federal theory as is the autonomy of regional governments within their jurisdiction. Wheare's opinion on this matter is typical of the federal theorists: "It is usually assumed that the foreign relations of a federation will be controlled predominantly, if not exclusively, by the general government of the whole territory."<sup>20</sup> One of Duchacek's 'ten yardsticks' or conditions for federalism include exclusive control by the central government over foreign relations.<sup>21</sup> Duchacek explains the logic upon which this condition is based:

. . . the emphasis is on making the federal nation-state a separate, sovereign, and identifiable unit vis-a-vis other nation-states . . . to present itself on the international scene as possessing the power and the will to speak on behalf of its component units with one single legitimate voice . . . <sup>22</sup>

Control over foreign affairs by the central government is the feature which distinguishes a federation from a con-

federation of sovereign states. This is especially clear in light of the theory of the state in international law.

J. Brierly defines the essential attributes of a state as ". . . an organized government, a defined territory, and such a degree of independent control by any other state as to be capable of conducting its own international relations."<sup>23</sup>

The underlying logic of a federation, therefore, is to allow diverse regions to form a sovereign nation without foregoing regional autonomy in certain areas.

Although it is essential for the central government to retain predominant control over foreign affairs, this control need not be exclusive. As regional autonomy in certain jurisdictional areas is also essential to a federation, it is clear that serious complications could arise with such exclusivity. For this reason member states may exercise some discretion in this regard. As R. Bowie and C. Friedrich state, "In all federations foreign relations are controlled by the federal government. . . the extent of the control can vary however. . . and in almost all federations there are certain areas in the field in which the component States have retained a certain amount of jurisdiction."<sup>24</sup>

While the making of foreign policy and the earlier mentioned 'lion's share' of foreign relations rest in the hands of a federation's central government, a limited amount of competence can be left to the regional governments. The difficulty, as Duchacek notes, lies in identifying the point

beyond which member state competence renders a federation  
". . . a loose association of several nations. . ."25

International legal theorists are divided as to whether a member state of a federation can be a limited international person.<sup>26</sup> There is little dispute, however, over L. Oppenheim's assertion that "Full subjects of International Law-International Persons with all the rights and duties regularly connected with international personality - they certainly cannot be."<sup>27</sup> In accordance with the tendency of international law to ignore the constitutional make-up of a sovereign state, the central governments of federations are accorded the status of full international personality.<sup>28</sup> The absence of internal sovereignty in the full sense of the term has no bearing in international law or practice. Thus the capacity of central governments internationally, ". . . and therefore their international status, is a direct function of their sovereignty."<sup>29</sup> As Oppenheim points out however, the status and position of member states is not clear, "It is frequently maintained that they are deprived of any status whatsoever within the Family of Nations. But there is no justification for that view."<sup>30</sup>

The view that member states of federations can possess a limited international personality is based on their competence as derived from the constitution, in conjunction with international recognition. In international law, non-sovereign states cannot possess full international personality. Since sovereignty is accorded to the central government, member states

cannot claim a status on this basis. With regard to international competence as a criterion for limited international personality, this is based on the assumption that member states of federations are among those subjects of international law,<sup>31</sup> such as the United Nations, which are not sovereign states.

International competence as a basis for limited international personality was recognized by the International Court of Justice in 1949 in the Reparation for Injuries case.<sup>32</sup> The potential for a limited international status for member states would therefore depend upon whether in fact they do exercise international competence or merely act as agents for the central government. While some theorists do argue that international powers exercised by member states are delegated powers, the validity of this argument is widely disputed. Within a federal state, both levels of government derive their powers from the constitution as interpreted by the judiciary, not from the central government. This is in accordance with the supremacy of the constitution in a federal state as outlined by Dicey.<sup>33</sup> Therefore, delegation of powers cannot be said to occur between the two levels of government in a federation.

International powers held by member states, one may conclude, derive from the constitution, but such constitutional provisions by themselves do not guarantee a limited international status. There are limits to the extent to which municipal law can shape international practice and law. As A. Gotlieb states:

... other states would have to recognize the status which the federal constitution describes and be willing

to treat with such states in that manner before the constitutional assertion of such powers could be regarded as creating a genuine international status. 34

Whether or not a member state is accorded a limited international status by its constitution and the international community will determine its responsibility for its actions. To be responsible for its international obligations, the member state would have to conduct its affairs in its own name, not through a body of the central government. Although international law has not been finally established with regard to such responsibility, according to Bernier, the central government remains indirectly responsible for agreements concluded by member states as long as some control is maintained over their actions.<sup>35</sup>

As a sovereign state in the international arena, the central government is responsible for its international obligations. Furthermore, it is a principle of international law that "A State cannot adduce as against another State its own constitution with a view to evading obligations incumbent upon it in international law or treaties in force."<sup>36</sup> The World Court, which made this decision, was acting in accordance with the earlier mentioned trend of international law. Thus the Court stated that "'From the standpoint of International Law and of the Court which is its organ, municipal laws are merely facts.'"<sup>37</sup>

International law makes no distinction between the making and implementing of treaties. In certain states however, a distinction is made between these acts and "Power to make belongs to the executive, while power to perform

internally (implement) rests with the legislature."<sup>38</sup> When power to implement is divided between the central and regional governments, complications may arise.

The question of whether or not a member state may claim sovereign immunity has not been fully established. As such immunity is based on sovereignty and independence, the tendency has been to answer in the negative. Jurisprudence differs among nations, nevertheless. In 1969 the Paris Appeal Court refused such immunity to a German Länd on the grounds that its international competence could not justify an immunity based on sovereignty. The United Kingdom on the other hand, in a case concerning a Canadian province, was prepared to grant immunity on the basis of the province's internal sovereignty.<sup>39</sup>

The codification of international law with regard to the treaty-making capacity of member states of federations has been limited by the conflicting positions of sovereign states. The International Law Commission prepared draft articles for the Convention on the Law of Treaties held in two sessions in 1968 and 1969. A paragraph of one of these articles stated "States members of a federal union may possess a capacity to conclude treaties if such capacity is admitted by the federal constitution and within the limits there laid down."<sup>40</sup> The article was passed at the first session in Vienna, although a majority of the federal states ". . . intéressés directement par le problème aux implications politiques évidentes"<sup>41</sup> were opposed.

The controversial paragraph, as the commentary of the International Law Commission reads, is based on the fact that

there exists ". . . no rule of International law which precludes the component states of a federation from being invested with the [treaty] power. . ." <sup>42</sup> The federal states at the Convention argued that the paragraph left open the possibility of foreign intervention. Canada's representative, Mr. Wershof, lobbied against the paragraph at the second session, arguing that the danger of such intervention was all the greater in a nation with an unwritten constitution. <sup>43</sup> Despite an article specifying that such constitutional provisions would have to be manifest and undisputed within the federation as well as internationally, the paragraph was dropped in 1969 ". . . due, it would seem, to the active and influential opposition of most federal States, in particular Canada." <sup>44</sup>

The deletion of the paragraph was officially attributed to its concern with a non-sovereign entity in a Convention ". . . intended to deal exclusively with treaties between sovereign states." <sup>45</sup> The deletion does not therefore ". . . modify the generally recognized principle of international law. . . which involves two legal orders, domestic and international. . ." <sup>46</sup> The international competence of a member state, as well as its limited international status, depends on agreement between the two levels of government within the federation as well as recognition on the international plane. As Jacomy-Millette points out with regard to these two conditions, juridicially, it is a question at the point of convergence between international law and internal constit-



utional law.<sup>47</sup> If the constitution of a federation is not clear as to the international capacity of the member states and there is no internal agreement, ". . . it is the duty of foreign states to abstain from intervening in the internal affairs of the federation. This is in accordance with the fundamental principles of sovereignty, consent and recognition."<sup>48</sup>

While the potential exists, as just seen, for limited international status for member states of federations, approximately half of the more than twenty federations in existence allow only for a limited international competence, and very few accord their member states a limited international personality. The federations, ten in number, in which treaty-making power and international competence in other respects is completely centralized ". . . give the appearance, in the international community and in some cases even at the domestic level, of being decentralized unitary States rather than federations."<sup>49</sup> Two of these states, Czechoslovakia and Yugoslavia, undertook constitutional amendments in 1970 and 1971 respectively which allow for some member state participation in treaties within their jurisdiction.

A second 'formula' for the allocation of international competence does not involve a limited international status for the member states, but does allow them a certain international competence under the supervision of the central government. Agreements concluded by the member states in this case,

if legally binding internationally, are in the name of the central government, which is considered the real party to the agreement. The United States follows this procedure, its constitution carrying a general prohibition against state treaty-making, followed by a paragraph stipulating ". . . that no State 'shall, without the consent of Congress. . . enter into any Agreement or Compact with another State, or with a foreign Power.'"<sup>50</sup> Many of the arrangements concluded by the states relate to boundary or administrative questions with contiguous Canadian provinces.

A final category for member state international roles involves greater constitutional authority for their foreign relations. There are four federations, the U.S.S.R., Switzerland, West Germany and Argentina, which have such constitutions providing for member state international competence and limited status. The Soviet constitution read "Each Union Republic has the right to enter into direct relations with foreign States and conclude agreements with foreign states and exchange representatives with them."<sup>51</sup> In terms of real political power however, the Soviet federation is highly centralized. Although the Ukraine and Byelorussia represent the only two federal member states admitted to the United Nations as non-sovereign nations, this is universally recognized as establishing no legal precedent,<sup>52</sup> and is seen only as providing the U.S.S.R. with two extra votes. Such limited international status as these member states are given, in other words, is considered

meaningless. Argentina's constitutional provisions for member state conclusion of non-political treaties have similarly lost their meaning in constitutional practice.<sup>53</sup>

Switzerland and West Germany therefore, provide the only two examples in the last category of federations in which the member states are considered the official parties to international agreements, thereby attaining a limited international status. The Swiss constitution provides for cantonal treaty-making capacity in the areas of public economy, frontier traffic and police relations, with the proviso that the agreements ". . . contain [nothing] . . . prejudicial to the Confederation or the rights of other cantons."<sup>54</sup> Prior consent from the Federal Council of Switzerland is required for all international agreements concluded by cantons. Although there is some question as to which party may be bound in an agreement concluded through the intermediary of the Federal Council, there is no doubt that ". . . to the extent that cantons conclude treaties with foreign states in their own name, they must be considered as subjects of international law."<sup>55</sup>

Similarly, the West German constitution provides that ". . . insofar as legislation falls within the competence of the Länder, these may, with the approval of the Federal Government, conclude treaties with foreign states."<sup>56</sup> Although the Länder have been restricted to treaties chiefly concerning border questions by the Lindauer Agreement, the agreements which they do conclude are internationally valid. The consent

of the federal government is immaterial to their validity.<sup>57</sup>

The international practice of federations, it would appear, tends toward a highly centralized treaty-making and foreign affairs power. Although the limited international status held by the member states of West Germany and Switzerland does set an example and would appear to establish the legal limits to the power of member states, Gerald Morris is correct in the following statement: "The overwhelming trend in practice is to a centralized treaty-making power. . ."<sup>58</sup> Furthermore, although the consent of the central government may in some federations be immaterial to the international validity of treaties,

There appear to be no examples of federal constitutions which allow the members to make international agreements freely and independently of the federal power or without a right of approval or supervision on the part of the central power.<sup>59</sup>

In a federal state, there may be restrictions on the powers of the central government. Such restrictions arise first from the division in some states between treaty-making and treaty implementation. In three federal states, the central government is restricted from implementing a treaty which it has concluded on a subject within member state jurisdiction. These three, Canada, Nigeria and West Germany remain legally bound internationally for such treaties but are internally powerless to implement them. The Canadian decision was rendered in the 1937 Labor Conventions case, relating to the implementation of the Conventions of the International

Labor Organization. This decision reversed the trend toward federal powers of implementation of treaties related to provincial jurisdiction, exhibited in the Aeronautics Case and Radio Case of 1932. Lord Atkin, in declaring that treaty legislation did not exist as a separate class of subject-matter but that the subject of the treaty would determine whether the federal or provincial governments had the legislative power of implementation, commented as follows:

It would be remarkable that while the Dominion could not initiate legislation... which affected civil rights in the Provinces, yet its Government not responsible to the Provinces nor controlled by provincial Parliaments need only agree with a foreign country to enact such legislation: and its Parliament would be forthwith clothed with authority . . . Such a result would appear to undermine the constitutional safeguards of provincial constitutional autonomy. . . While the ship of state now sails on larger ventures and into foreign waters she still retains the water-tight compartments which are an essential part of her original structure. 60

The reasoning in Lord Atkin's judgement was paralleled in the West German Reichskonkordat case of 1956, in which the Federal Constitutional Court upheld Länd legislation inconsistent with a federal treaty obligation.<sup>61</sup> In both the Canadian and West German cases, cooperation between the two levels of government was called for to eliminate conflicts between federal treaty obligations and their internal implementation.

The vast majority of federal states have no restrictions on central government treaty powers. Either the central government is given the power to legislate within member

state jurisdiction for the implementation of treaties, as is the case in Australia<sup>62</sup> or the treaties concluded automatically have the force of law, regardless of their subject matter. The United States offers an example of the latter arrangement, a decision being made to this effect by the Supreme Court in the 1920 Missouri v. Holland case concerning a 1916 treaty with Canada over the protection of migratory birds. In making the judgement that the federal government could intrude into state jurisdiction through a treaty, Mr. Justice Holmes commented that the involvement of the national interest along with the threat of the extinction of the birds made it insufficient ". . . to rely upon the States. . ." <sup>63</sup>

Scholars are divided as to which system is preferable, that of granting central government the power to intrude into member state jurisdiction for an uninhibited foreign affairs power, or that of protecting the autonomy of the regional government. Wheare, recognizing the fundamental nature of federalism, argues that ". . . those circumstances which make federalism essential and unavoidable are likely to make this division of power in the control of foreign relations also essential and unavoidable." <sup>64</sup> Morris on the other hand, suggests that the judges in the Labor Conventions case failed ". . . to discern the true relationship of the concept of the sovereign national state to the fundamental elements of federalism. . . [The decision represented a] logical aberration from rational federal theory. . ." <sup>65</sup>

Critics of the system which the Labor Conventions case advocated argue that ". . . Canada's capacity to participate in the life of the international community of states remains grossly impeded."<sup>66</sup> As an example of Canada's inhibitions internationally, authors point to the 1947 United Nations General Assembly Resolution on the Teaching of the Purposes and Principles of the United Nations in the schools. Canada told the Assembly that since education came under provincial jurisdiction, it could only transmit the recommendations to the provinces, but could take no action itself.

In West Germany, a solution was found to this type of dilemma in the 1957 Lindauer Agreement whereby the Länder agreed to allow the Bund to make treaties within Länder jurisdiction, provided that prior consultation and in some cases approval, is obtained.<sup>67</sup>

With regard to the differences between federations with and without central government unrestricted treaty powers, Gotlieb points out that ". . . it is possible to exaggerate [their]. . . significance and effect. . ."<sup>68</sup> Many federations ask for the inclusion of a 'federal state clause' which releases them from obligations requiring intrusion into member state jurisdiction. Despite the United States decision favoring federal treaty power, it has refused to ratify almost all International Labor Conventions because of their concern with a subject under state jurisdiction.<sup>69</sup> Australia has also refrained from using its powers to usurp regional government

autonomy. Canada, with its internal restrictions, has an international record of ~~treaty~~ ratification better in some cases than that of the United States, and which ". . . bears favourable comparison with the achievements of other members of the U.N."<sup>70</sup> Furthermore, the incapacitating effect of these internal restrictions is brought into question when Canada does not ratify a treaty even after a federal state clause is inserted. This is the case with the Convention relating to the "Status of Refugees of 1951, to which Canada is not yet a party. Gotlieb points out the following:

This type of situation brings into clear relief the difficulty in assessing whether a particular federal state abstains from ratifying a particular convention for jurisdictional or for policy reasons. 71

Canada's international capacity is not hindered whatsoever in the conclusion of the ". . . very large percentage of all treaties which do not even require legislation but can be implemented by executive or administrative action. . ."72

Many treaties on matters of provincial jurisdiction which do require legislative implementation are simply preceded by informal consultations to ensure provincial cooperation. The Columbia River Treaty was a case in which a province, British Columbia, played a prominent role in the lengthy and complex negotiation of the Canada-United States agreement. The British Columbia government was seen as having legitimate interests in the negotiations. Indeed, the province's cooperation was essential, as it retained jurisdictional control



over the water resource. While the province played a major role in the research teams and saw its Deputy Minister of Lands appointed in 1960 as one of the four official Canadian negotiators, Canada maintained its official diplomatic and international signing prerogatives. As Neil Swainson stated, "British Columbia's jurisdiction over the water resource was reflected in the intra-Canadian liaison committees, in the direct provincial representation on the Canadian negotiating team in 1960, and in the province's major contribution to the negotiation of the downstream power sale during 1963."<sup>73</sup>

The significant role played by the British Columbia government in shaping the final form of an international treaty was recognized in the 1968 Federal Government White Paper as an 'indemnity agreement.'<sup>74</sup> This refers to the supplementing of a federal international treaty with a federal-provincial agreement over its implementation. The federal government, in fact, must obtain the approval of the provincial government to execute the treaty terms. If the provincial government fails to execute the treaty terms, it must indemnify the federal government. The Columbia River Treaty in this way set a precedent for the legitimacy of heavy provincial participation in the conclusion of treaties related to their jurisdiction.

With regard to restrictions on a federation's international capacity, one must conclude that the formal legal restrictions are not the decisive factor. Bora Laskin recog-

nized this point:

Notwithstanding this omnicompetent legal power, both the United States and Australia have been restrained by the centrifugal forces which are present in all federations from pushing their constitutional authority too far. 75

Rather than the law playing the most significant role, what may be more important is ". . . the attitude of the central and regional authorities towards the general exercise of the treaty-implementing power."<sup>76</sup> To the extent that federations are encumbered therefore, this can be attributed to the very nature of federalism, from which no true federation can escape, whatever its laws.

The legal debate in Canada over the allocation of foreign affairs power has arisen because of a failure in the British North America Act to refer to the matter. Promulgated before Canada had achieved its independence, the Act's sole reference to foreign affairs, Section 132, gave the federal government powers to implement British empire treaties. This section became obsolete when Canada became an independent nation. As a result, the present allocation of authority is based on tradition and judicial precedent, the meaning and interpretation of which is subject to dispute. Clearly, the federal government, according to the principles of international law, is a sovereign state with all the powers accruing to a full international person. Additionally, the Labor Conventions case has become a cornerstone of constitutional practise, safeguarding provincial authority and limiting to an extent the

federal treaty power. The legal debate has therefore been concerned with the status of provincial activities, that is, whether or not the federal government has exclusive legal powers.

The proponents of the argument for exclusive federal jurisdiction include the federal government, along with such scholars as Ivan Rand, Bora Laskin, Gerald Morris and R. J. Delisle. This argument refers to the devolution of the treaty-making powers to Canada with her accession to full sovereign status. Delisle says in this regard:

It is submitted that not only is the power in the Dominion government full but it is also exclusive. . . As the executive power of making treaties came across the seas gradually, the recipient was always the Dominion government and never the provincial governments. 77

The power of international relations being part of the Royal Prerogative, the federal government in a White Paper points to the delegation of these prerogative powers of the Crown in right of Canada to the Governor-General by the Letters Patent of 1947.<sup>78</sup> The federal government argues that there has never been any such delegation of prerogative powers to the Lieutenant-Governors of the provinces. Delisle claims that the fact that Lieutenant-Governors are appointed by the Governor-General ". . . precludes the possibility of the prerogative power being delegated to them."<sup>79</sup> Reference is also made to the comments of a Supreme Court judge, Chief Justice Duff, in the *Labor Conventions* case before it was referred to the Privy Council. Part of his commentary reads

". . . in no respect does the Lieutenant-Governor of a Province represent the Crown in respect to relations with foreign Governments."<sup>80</sup> In its two White Papers issued in 1968, the federal government argued that external sovereignty, and therefore the foreign affairs power, is indivisible. The federal government also called for federal-provincial co-operation within the Canadian context, pointing out that no federal states allow their member states an independent international role.<sup>81</sup>

Those who do not interpret Canadian law and judicial cases as giving the federal government exclusive authority include not only the Province of Quebec but in an earlier period the Province of Ontario. Jacques-Yvan Morin has put forward a clear case, as well, for provincial competence and limited international status. Many scholars point to the weaknesses in the argument for exclusivity, while recognizing the inconclusive nature of existing Canadian constitutional law. For example, the reference made by the federal government and several other scholars to the comments of Chief Justice Duff was inaccurate in the emphasis on its authority. The Supreme Court consisted of six judges in the case who were divided as to the power of the federal government to legislate in provincial jurisdiction for a treaty obligation.<sup>82</sup> Furthermore, this Labor Conventions case was thereafter taken to the Judicial Committee of the Privy Council which chose not to pronounce on the question of treaty-making, while dividing

the power of treaty implementation between the two levels of government.

The argument for exclusive federal control also points to international law as precluding ". . . the possibility of individual provinces remaining members of the federation of Canada and entering into an international agreement intended to create legal rights and obligations. . ." <sup>83</sup> On the basis of the above review of international law on the question, this is simply not true. The federal government claimed in a White Paper that granting autonomy to the provinces in external affairs in those fields in which they have exclusive jurisdiction would create a confederation of states. <sup>84</sup> The federal government thus refused to recognize the broad area for member state activity in foreign affairs, ranging from no expression as in a unitary state to full autonomy as a sovereign state in a confederation.

The basis in Canadian constitutional law for a limited international status and role for the provinces is found primarily in two judicial cases. The 1892 case of the Liquidators of the Maritime Bank of Canada v. The Receiver General of New Brunswick affirmed provincial autonomy in its field of jurisdiction. The case determined that the Lieutenant-Governors of the provinces enjoyed the Royal Prerogative for provincial purposes just as the Governor-General possessed the Royal Prerogative for federal purposes. The second case, the Bonanza Creek Gold Mining Company Ltd. v. The King, of 1916,

decided that the provinces enjoyed the executive authority corresponding to their legislative competence. The Labor Conventions case having determined provincial legislative competence for treaty-implementation, it can be argued that they must therefore possess the executive power of treaty-making. Furthermore the argument of Delisle that the Lieutenant-Governors were subordinate to the Governor-General is refuted by the Maritime Bank decision. As the Attorney-General for the province of Ontario argued in the Labor Conventions case:

There are no grounds whatever for saying that the parties to advise His Majesty in matters relating to the jurisdiction of the Provinces have in some way come to be the Dominion Ministers. Ontario has a right to enter into an agreement with another part of the British Empire or with a foreign state. 85

The Quebec government's Minister of Education in 1965, Paul Gérin-Lajoie, in a speech before the Montreal consular corps, argued that Quebec enjoyed international competence, jurisprudence having well established ". . . la souveraineté des Etats provinciaux dans les matières qui tombent sous leur jurisdiction."<sup>86</sup> Mr. Gérin-Lajoie claimed that the judicial precedents referred to above gave Quebec every right ". . . comme d'ailleurs toutes les autres provinces Canadiennes, de conclure pour son compte des ententes internationales."<sup>87</sup>

The distinction lay in the use of the word 'treaty' for solemn and official accord likely to affect directly political relations between states. Ententes, on the other hand, refer to ". . . les accord relatifs à des objets plus restreints,

de moindre envergure, et qui ne portent pas spécifiquement sur les rapports proprement politiques. . . il s'agit de s'entendre. . . de se rencontrer et de se parler, afin de réaliser un accord commun sur tel objectif bien précis."<sup>88</sup>

Thus, contrary to the claims of the federal government, the province of Quebec argued for its right to reach international agreements, though of a less formal and legally binding nature. Canada, argued Mr. Gérin-Lajoie, possessed not one, but a double international personality, ". . . l'une émanant des domaines où le fédéral est compétent, l'autre des domaines que la constitution désigne comme provinciaux."<sup>89</sup>

The Quebec government's Working Paper on Foreign Relations, published for the Constitutional Conference in 1969, makes the same points, and argues for provincial competence on the basis of common sense:

. . . only the Government of Quebec has both the practical information and the constitutional responsibilities needed to negotiate and implement this type (educational) of agreement.<sup>90</sup>

Far from suggesting the type of role which would render Canada a confederation of autonomous states, the Working Paper explicitly recognized the need for a unified foreign policy, suggesting that the provinces inform the federal government before taking any international action to ensure the absence of conflicts. The Working Paper also asked for consultation when the federal government's international affairs had implications for the provinces.

The argument for provincial competence has also been

subject to criticism. Morris points out that the two judicial cases were decided long before any question of international relations or the treaty powers existed, and thus could not be said to have pronounced upon them. The frequent allusion by Morin to the status of the member states in other federations ignores the earlier mentioned centralizing trend in these same federations. One can only concur with Leeson that "Both the federal and provincial governments are guilty of strained interpretations of these [Privy Council and Supreme Court] decisions."<sup>91</sup> There is no clear constitutional basis for either exclusive federal control of international affairs or provincial limited international status.

As Canadian law and practice now stand, the provinces do not exercise a limited international status. The 1955 case of the Attorney-General for Ontario v. Scott clearly established the provincial right to make informal international arrangements. This particular case concerned a reciprocal agreement with Great Britain enforcing maintenance orders against deserting husbands. For an agreement to have international legal effect however, the federal government insists that it must intervene. Thus in the 1950's, when Nova Scotia signed an agreement with the Netherlands, the federal government intervened to have the agreement voided. As Morris points out, the federal government ". . . has not always found the provinces so amenable to correction."<sup>92</sup> In the mid 1960's, the province of Quebec sought a measure of international competence, and



". . . pour essayer politiquement de renforcer sa position dans le débat constitutionnel et de mettre en quelque sorte le gouvernement fédéral devant le fait accompli"<sup>93</sup> the province concluded ententes with foreign states.

The status and scope of provincial international relations has been a source of controversy in Canada since Confederation, long before Canada had achieved its independent status. The debate became heated in the 1960's as the province of Quebec took initiatives in accordance with her view of her jurisdictional position. Although the debate subsided by the beginning of this decade, Canada's constitutional position in regard to international relations has not been established.

The constitutional argument in the mid 1960's revolved around the powers of the federal and provincial governments to make and implement international agreements. The conflict arose over two ententes signed by the province of Quebec and the government of France in 1965 concerning education, a specifically provincial field of jurisdiction. With regard to the first agreement, the government of Quebec suggested in a letter to the Department of External Affairs that the procedure be changed from a procès-verbal, or record of the discussion to be accompanied by an exchange of notes between the governments of Canada and France to an entente. The document, called "Une entente entre le Québec et la France sur un programme d'échanges et de coopération dans le domaine de l'éducation"<sup>94</sup> was signed in late February in Paris without federal approval. To

this initiative ". . . Ottawa reacted quickly with an exchange of notes with the French government, giving the sanction of international law to this arrangement."<sup>95</sup>

The federal position was that the entente was made with the permission of the federal authorities and was authorized and made possible only by the exchange of letters. The interpretation given by the Quebec Minister of Education, Paul Gérin-Lajoie, in a speech to the Montreal consular corps in mid-April contradicted the federal assumption. The entente, he stated, demonstrated "la détermination du Québec de prendre dans le monde contemporain la place qui lui revient et de s'assurer, a l'extérieur autant qu'à l'intérieur, tous les moyens nécessaires pour réaliser les aspirations de la société qu'il représente."<sup>96</sup>

In discussing the necessity for constitutional change for the province of Quebec's development, Mr. Gérin-Lajoie pointed out that the province did not need such change for the conduct of its international affairs because ". . . la jurisprudence a bien établi la souveraineté des Etats provinciaux dans les matières qui tombent sous leur juridiction."<sup>97</sup> He further rejected the admissibility of the federal government exercising "une sorte de surveillance et de contrôle d'opportunité sur les relations internationales du Québec dans les domaines qui sont de la compétence législative de cette province."<sup>98</sup>

This debate over authority was taking place in the context of actions on the part of the Quebec government corresponding

to its view of its jurisdiction. The federal government, for its part, could only respond by ratifying agreements made by Quebec after the fact, in order to preserve its exclusive authority. The federal government thus found itself in an awkward position, unable to prevent Quebec from taking initiatives and yet unwilling to forego its prerogative to supervise all such affairs.

In this way constrained, the federal government sought to save face by ratifying such agreements in advance through an 'umbrella agreement' with France. This accord-cadre, concluded in November between the governments of Canada and France, enabled a province to sign its own cultural agreement by referring to the document. The second entente between the governments of Quebec and France, signed only one week later, made no reference to the general agreement, and the federal government 'regularized' the situation through an exchange of notes.

The accord-cadre was to some degree a concession on the part of the federal government in Ottawa to recognize the distinction drawn between an entente and a treaty. But the general agreement was also a means for the federal government to preserve its overall authority, no doubt the Quebec government's rationale for not referring to it in the second entente. The effect of the accord-cadre, aside from easing some of the federal government's tension over infringements on its foreign affairs jurisdiction, has been to confer

"international law status upon what would otherwise be simple, unenforceable, trans-national accords."<sup>99</sup> The ententes in which the government of Quebec was interested ". . . have raised no 'foreign affairs' questions, since giving rise to absolutely no legal obligations, international or otherwise."<sup>100</sup> According to E. McWhinney then, the federal government's reaction to the Quebec government's initiatives was a response to a threat to its treaty-making power which did not exist. A real contention did exist however, over the federal government's surveillance of the government of Quebec's actions. Thus the decline of the controversy after the accord-cadre did not represent a solution to the question of exactly how much executive authority a province holds - as the international conference dispute was soon after to reveal.

To protect its exclusive status, the federal government severed ties with Gabon in 1968 when the nation seemingly treated the province of Quebec as a limited international person. Throughout the episodes of the last decade, the federal government maintained its exclusive international legal authority. When an internal conflict regarding international status exists in a federation, it was earlier seen that international law requires that foreign states not intervene. Thus any attempt by a province to attain a limited international status with the help of a foreign nation will be frustrated by the federal government's ability to accuse the nation of interfering in Canada's domestic affairs.


The extensive international activity carried on by some provinces is therefore purely unofficial unless the federal government intervenes. The agents-general maintained abroad are not officially accredited to any government, and what treatment they receive is no more than diplomatic courtesy.

With regard to the provinces' capacity to conclude international agreements, ". . . there are several types of arrangements or agreements that provinces can make, falling short of provincial treaties."<sup>101</sup> Aside from the informal arrangements mentioned, the provinces can operate under private international law for contractual agreements between government departments. As well, the provinces can, with authorization from the federal government, enter into a legally binding agreement with foreign governments. In particular cases the Parliament of Canada, rather than the government, can pass legislation authorizing a province to conclude a legally binding agreement.<sup>102</sup> Such legal authorization, the federal government makes clear, ". . . does not involve the province itself ~~acquiring~~ international rights or accepting international obligations. Only the Canadian government is bound internationally by the agreement. . ."<sup>103</sup> Provincial participation in official Canadian delegations to international conferences provides another means of international expression for the provinces.

Despite the confusion in Canadian constitutional law, and the debate over provincial international competence, the

legal parameters to provincial roles are relatively clear. The potential exists in international law, and to some degree in international practice, for a limited international status for a member state under central government supervision. Canadian constitutional law being inconclusive on the subject, agreement for provincial status between the two levels of government would be essential, as would the cooperation of the international community. Given the federal government's sensitivity to provincial activity, and the association of the foreign affairs power with sovereignty, an accord between the federal and provincial governments is not likely to be reached.

Yet the strictly legal powerlessness of the provinces does not accurately reflect the extent or the importance of their international activities. The international relations of the provinces are rarely a matter of binding law. Nevertheless, the international and Canadian legal framework does establish the context for present provincial activity abroad. As federalism is a function of both society and its institutions, neither can be ignored in an analysis.



<sup>1</sup>Ivan Bernier, International Legal Aspects of Federalism (London: Longman Group Limited, 1973), p. 269.

<sup>2</sup>A federation's two levels of government are commonly referred to as the central government and the component, or member states.

<sup>3</sup>K. C. Wheare, Federal Government 4th ed. (New York: Oxford University Press, 1963), p. 10.

<sup>4</sup>Carl J. Friedrich, Trends of Federalism in Theory and Practice (New York: Frederick A. Praeger, Publishers, 1968), p. 173.

<sup>5</sup>William H. Riker, Federalism: Origin Operation Significance (Toronto: Little, Brown and Company, 1964), p. 11.

<sup>6</sup>Livingston, p. 21.

<sup>7</sup>Wheare, p. 75.

<sup>8</sup>Ivo D. Duchacek, Comparative Federalism (New York: Holt, Rinehart and Winston, Inc., 1970), p. 192.

<sup>9</sup>Riker, p. 11.

<sup>10</sup>A.V. Dicey, Introduction to the Study of the Law of the Constitution (London: Macmillan and Co., Ltd., 1964), p. 143.

<sup>11</sup>Friedrich, p. 8.

<sup>12</sup>Daniel J. Elazar, The Ends of Federalism: Notes Toward a Theory of Federal Political Arrangements Working Paper No. 12 (Philadelphia: Centre for the Study of Federalism, 1976) p. 36.

<sup>13</sup>Bernier, p. 269.

<sup>14</sup>André Patry, "La Capacité Internationale des Etats fédérés" in J. Brossard, A. Patry, E. Weiser, ed., Les Pouvoirs Extérieurs du Québec (Montréal: Les Presses de l'Université de Montréal, 1967), p. 35.

<sup>15</sup>Jacques-Yvan Morin, "The Treaty-Making Power of Quebec" in F. Vaughan; P. Kyban; O. P. Dwivedi, ed., Contemporary Issues in Canadian Politics (Scarborough: Prentice-Hall, 1970), p. 128.

<sup>16</sup>Wolfgang Friedmann, The Changing Structure of International Law (New York: Columbia University Press, 1964), p. 3.

<sup>17</sup>Annemarie Jacomy-Millette, "Aspects Juridiques des Activités Internationales du Québec," in Paul Painchaud, Le Canada et le Québec sur la Scène Internationale (Québec: Les Presses de l'Université du Québec, 1977), p. 516.

<sup>18</sup>Bernier, p. 271.

<sup>19</sup>Wheare, p. 178.

<sup>20</sup>Wheare, p. 169.

- <sup>21</sup>Duchacek, p. 202;
- <sup>22</sup>Ibid., p. 208.
- <sup>23</sup>J. L. Brierly, The Law of Nations: An Introduction to the International Law of Peace 6th ed., (New York: Oxford) University Press, 1963), p. 137.
- <sup>24</sup>Robert R. Bowie and Carl J. Friedrich, Studies in Federalism (Toronto: Little, Brown & Co., 1954), p. 236.
- <sup>25</sup>Duchacek, p. 217.
- <sup>26</sup>Jacomy-Millette, p. 520.
- <sup>27</sup>L. Oppenheim, International Law: A Treatise 8th ed., (London: Longmans, Green & Co., Ltd., 1955), p. 177.
- <sup>28</sup>Bernier, p. 29.
- <sup>29</sup>Ibid., p. 30.
- <sup>30</sup>Oppenheim, p. 176.
- <sup>31</sup>According to international law, an international person or subject of international law is the bearer of rights and duties in public international law.
- <sup>32</sup>Bernier, pp. 33-34.
- <sup>33</sup>Dicey, p. 140.
- <sup>34</sup>A. E. Gotlieb, Canadian Treaty-Making (Toronto: Butterworths, 1968), p. 32.
- <sup>35</sup>Bernier, p. 115.
- <sup>36</sup>Ibid., p. 85.
- <sup>37</sup>Ibid., pp. 84-85.
- <sup>38</sup>G. J. Szablowski, "Creation and Implementation of Treaties in Canada," The Canadian Bar Review 34 (1956) : 30.
- <sup>39</sup>Jacomy-Millette, pp. 541-542.
- <sup>40</sup>Annemarie Jacomy-Millette, Treaty Law in Canada (Ottawa: University of Ottawa Press, 1975), p. 95.
- <sup>41</sup>Jacomy-Millette, Le Canada et le Québec, p. 521
- <sup>42</sup>Jacomy-Millette, Treaty Law in Canada, p. 96.
- <sup>43</sup>Thomas Allen Levy, "Some Aspects of the Role of the Provinces in External Affairs: A Study in Canadian Federalism" (Ph.D. Dissertation, Duke University, 1974), p. 27.
- <sup>44</sup>Jacomy-Millette, Treaty Law in Canada, p. 96.
- <sup>45</sup>Bernier, p. 30.
- <sup>46</sup>Jacomy-Millette, Treaty Law in Canada, P. 97.
- <sup>47</sup>Jacomy-Millette, Le Canada et le Québec, p. 520.
- <sup>48</sup>Bernier, p. 270.
- <sup>49</sup>Jacomy-Millette, Treaty Law in Canada, p. 90.



- <sup>50</sup> Ibid.
- <sup>51</sup> Duchacek, p. 209.
- <sup>52</sup> Bernier, p. 209.
- <sup>53</sup> Patry, p. 52.
- <sup>54</sup> Bowie and Friedrich, p. 256.
- <sup>55</sup> Bernier, p. 46.
- <sup>56</sup> Bowie and Friedrich, p. 256.
- <sup>57</sup> Bernier, pp. 42-43.
- <sup>58</sup> Gerald L. Morris, "The Treaty-Making Power: A Canadian Dilemma," The Canadian Bar Review 45 (March, 1967): 497.
- <sup>59</sup> Gotlieb, p. 27.
- <sup>60</sup> Howard A. Leeson and Wilifried Vanderelst, External Affairs and Canadian Federalism: The History of a Dilemma (Toronto: Holt, Rinehart and Winston of Canada Ltd., 1973), pp. 76-77.
- <sup>61</sup> Edward McWhinney, Comparative Federalism: States' Rights and National Power (Toronto: University of Toronto Press, 1965), p. 47.
- <sup>62</sup> Bora Laskin, "Some International Legal Aspects of Federalism," in David P. Currie, ed., Federalism and the New Nations of Africa (Chicago, University of Chicago Press, 1964), p. 398.
- <sup>63</sup> McWhinney, p. 39.
- <sup>64</sup> Wheare, p. 177.
- <sup>65</sup> Gerald L. Morris, "Canadian Federalism and International Law" in R. ST J. Macdonald; Gerald L. Morris; Douglas M. Johnston, ed., Canadian Perspectives on International Law and Organization (Toronto: University of Toronto Press, 1974), pp. 59-61.
- <sup>66</sup> Szablowski, p. 59.
- <sup>67</sup> Bernier, p. 199.
- <sup>68</sup> Gotlieb, p. 82.
- <sup>69</sup> Bowie and Friedrich, p. 253.
- <sup>70</sup> Gotlieb, p. 83.
- <sup>71</sup> Gotlieb, p. 78.
- <sup>72</sup> Ibid., p. 76.
- <sup>73</sup> Neil A. Swainson, "Some Reflections on the Inter-relationships between the Governments of Canada and British Columbia during the 'Formative Years' of the Columbia River Treaty," a paper presented to a conference on the "Federal

Dimension in Canadian External Behaviour" Carleton University, November, 1975, p. 21.

<sup>74</sup>Hon. Paul Martin, Secretary of State for External Affairs, Government of Canada, Federalism and International Relations (Ottawa: Queen's Printer, 1968), p. 31.

<sup>75</sup>Bora Laskin, "The Provinces and International Agreements," Background Papers and Reports, 1:110.

<sup>76</sup>Gotlieb, p. 83.

<sup>77</sup>R. J. Delisle, "Treaty-Making Power in Canada," Background Papers and Reports, 1:131.

<sup>78</sup>Martin, p. 15.

<sup>79</sup>Delisle, p. 132.

<sup>80</sup>Martin, p. 15.

<sup>81</sup>Hon. P. Martin and Hon. M. Sharp, Secretary of State for External Affairs, Federalism and International Conferences on Education (Ottawa: Queen's Printer, 1968), passim.

<sup>82</sup>Edward McWhinney, "Canadian Federalism and the Foreign Affairs and Treaty Power. The Impact of Quebec's 'Quiet Revolution,'" Canadian Yearbook of International Law, Vol. 7 (1969), p. 7.

<sup>83</sup>Delisle, p. 133.

<sup>84</sup>Martin, p. 30.

<sup>85</sup>Québec delegation to the Constitutional Conference, Continuing Committee of Officials, Working Paper on Foreign Relations, Quebec, Feb. 5, 1969, p. 4.

<sup>86</sup>Le Devoir, 13 April 1965.

<sup>87</sup>Ibid., 1 May, 1965.

<sup>88</sup>Ibid.

<sup>89</sup>Ibid.

<sup>90</sup>Quebec delegation, p. 9.

<sup>91</sup>Howard A. Leeson, "Foreign Relations and Quebec," in P. Meekison, p. 519.

<sup>92</sup>Morris, in R. ST J. Macdonald, p. 64.

<sup>93</sup>Maurice Torrelli, "Les Relations Extérieures du Québec," Annuaire Francais de Droit International (1970) : 281.

<sup>94</sup>J. Castel, International Law (Toronto: University of Toronto Press, 1965), p. 824.

<sup>95</sup>G. Lalonde, "Quebec and International Affairs," in Quebec Society and Politics, ed. D. Thomson (Toronto:

McClelland & Stewart Ltd., 1973), p. 244.

<sup>96</sup>Le Devoir, 13 April 1965.

<sup>97</sup>Ibid.

<sup>98</sup>Ibid.

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<sup>100</sup>Ibid.

<sup>101</sup>Gotlieb, p. 30.

## Chapter III

## INTERNATIONAL ACTIVITIES IN THE 1970'S

The phenomenon of extensive and varied federal member state international activity being fairly recent, there is no comprehensive typology for such behaviour, much less a conceptual framework or theory. There is a limited understanding on a theoretical basis of the classes of federal member state activity which is compatible with the concept of federalism. Nevertheless, several authors have begun work in this area, Gerald Morris and Paul Painchaud in particular providing useful variables or criteria for the behaviour of federal member states. Roff Johansson's typology is also applicable to this study. For the purpose of examining the international activities of the provinces of Alberta, Quebec and Ontario in the economic, administrative and cultural fields, their categories are relevant. The present range of provincial international activities will be put in the context of the limited methodology available.

Gerald Morris, unlike Québécois authors, approaches the question of provincial international roles from a centralist standpoint. He attributes the Lord Atkin 1937 Labour Conventions decision, as earlier noted, to a failure to discern the true relationship of the concept of the sovereign national

state to the fundamental elements of federalism.<sup>1</sup> Morris speaks in terms of 'burdens' placed on the federal government with each measure of provincial international competence, the Lord Atkin decision constituting ". . . a considerable price to pay for safeguarding regional autonomy. . ." <sup>2</sup> In this same chapter he systematically swipes at the basic legal arguments supporting provincial treaty-making power. He goes so far as to argue that the International Law Commission's proposed article for the Convention on the Law of Treaties, referring to federal member state treaty-making capacity, indicated that its authors were ". . . drawn from a unitary state. . . [with] limited experience in the realm of federalism."<sup>3</sup> When referring to the province of Quebec's international initiatives of the 1960's, he makes no distinction between an 'entente' and a treaty. Therefore his emphasis in establishing the limits to provincial competence is based on the extent of their 'interference' with the federal capacity to act unhindered in the formulation and execution of foreign policy.

Provincial offices abroad, with their long histories, are deemed acceptable by Morris, provided they limit themselves to such areas as travel promotion and sales development. Morris calls for ground rules for the operation of provincial offices and 'alternative solutions' such as the positing of provincial officers to Canadian missions. According to Morris, the necessity for the federal government to be able to "orchestrate total diplomacy" means that the provinces simply ". . . must

learn to live with this reality."<sup>4</sup> While the provinces could undertake international relations on an informal basis, "Even here. . . an ultimate veto must reside in the federal power. . ."<sup>5</sup> The veto power alone however, would not be sufficient to protect the federal government's full diplomatic control, since a federal reversal of a provincial initiative can be complicated. Thus Morris calls for prior consultation and co-operation on all provincial activities: "Only in this way can the natural tension of the federal system be harnessed and the international effectiveness of Canadian activity at all levels be maximized."<sup>6</sup> Recognizing the international political needs of the provinces, he calls as well for the right of a province to voice its concerns, "whether or not their views are deemed justifiable,"<sup>7</sup> and to be kept fully informed. Morris argues for federal-provincial consultation, with the federal government making all ultimate decisions. He calls for more provincial offices in Ottawa, more joint committees with a real external relations function to instill in the provinces ". . . a sense of meaningful involvement in the development of co-operative foreign policies. . ."<sup>8</sup> Morris believes that a quiet revolution in co-operation is needed, with the guidelines to provincial behaviour based on the federal government's approval.

Paul Painchaud, while recognizing the difficulty in identifying variables in foreign affairs studies, brought forward several theoretical considerations concerning the neglected area of federalism and foreign affairs. Relevant

questions to be considered and explored, said Painchaud, related to what paradigms federal member state activity could be measured against, and what its significance was in terms of social affairs and politics.

The first and most important feature noted by Painchaud was the great extent of member state international activity, necessitating changes in administrative structures. In Canada, the provincial roles have been related to areas central to the socio-economic development of the nation, and have been sufficient to warrant changes at the federal level to accommodate greater federal-provincial coordination.

In general, federal member states of democratic regimes tend to undertake international roles ". . . quelles que soient les définitions que le droit international donne de leur statut."<sup>9</sup> To the extent that member states have real responsibilities in socio-economic international areas, jurisdictional distinctions lose their significance in determining their international roles. The growing interdependence of nation-states, combined with the increased access of member states to the international arena, had created a trend towards the 'internationalization of federal regimes.' Painchaud termed the process 'diffraction' of the federal system of foreign affairs. The impact of international events on the federal system combined with internal pressures on already decentralized structures has led to the deterioration of the monolithic nature of the external affairs policy system of the federal

state.

If, argued Painchaud, the international activities of member states constitute a permanent feature of modern politics, it would follow that such activity represents an important political dimension of federal systems. He hypothesized that for a certain number of member states, access to the international political system was one of the conditions for the effectiveness of their rule. They may thus be seen to have a foreign policy in the full sense of the word, transmitting their needs to the international scene, and acting also as a receptor. The international activities of federal member states consist of defending their interests in the international arena either directly or through the federal government, as well as receiving and responding to international demands and needs:

L'Etat fédéré peut donc être considéré comme un système politique que reçoit des intrants directs et indirects de l'environnement international, transformé ces intrants en intérêts, et produit à son tour des extrants, qu'on peut considérer comme sa politique étrangère. 10

This view, noted Painchaud, differs considerably from the prevailing classification of member states as simple pressure groups within the federal government external affairs structure. While the foreign affairs activities of member states usually do not reach the level of general diplomacy and broad foreign policy objectives, this too is within their reach. As an example of such a concern, Painchaud offered the strategy of the province of Quebec towards France. For the most part, however, member states could be expected to be concerned with



economic and social issues of concern within its borders.

Painchaud proposed a categorization of federal member state activities, based on a study of the province of Quebec, with the aim of focusing attention on variables relevant to the development of a broader theory. This study aimed at identifying the province's international interests and the manner with which they were dealt. Governmental acts are classified according to several issue-areas; the governmental mission, (security and diplomacy) the social mission, the economic mission, and the educative and cultural mission. The nature of the acts of the government in pursuing objectives in each of these areas was the subject of Painchaud's typology. He proposed the classification of the international acts of federal member states in five categories.

The first category, contractual acts, refers to all the accords and contracts reached between a member state and a foreign government or private group. While these acts can have a political bent, such as the France-Quebec ententes defining their framework of cooperation, in most cases these accords are at the administrative level.

Informational activities relate both to the gathering of information relevant to the socio-economic development of a federal member state, and to the diffusion of information with the aim of promoting abroad the interests of the member state. These two functions are fundamental, and constitute an important aspect of all foreign affairs, the gathering of

information especially being the motor of social progress. Painchaud said that no society can afford to ignore international technical and cultural developments. The Quebec government's 'maisons abroad' serve this purpose, as does the province's participation in international conferences, visits, and missions.

Acts of cooperation refer to all the tasks pursued by a member state together with another international actor, either on a permanent or ad hoc basis. Such cooperation can be diplomatic, political, scientific, cultural, technical, social or economic.

Acts of opposition refer to those undertaken by a federal member state to impede the aims of another international actor. These acts can also be related to politics, socio-economics, culture, science or technology. They are less numerous, but equally important to a member states' interests. These acts will generally take the form of pressure on the central government to intervene on behalf of the province. While acts of cooperation are easily undertaken, it is more difficult for a member state to defend itself on the international scene, not possessing a diplomatic corps, army, or jurisdictional powers. Naturally these acts can be directed against the central government when its acts contradict the interests of a province. For example, said Painchaud, the Quebec government has disputed the federal government on questions of foreign investment, immigration and cultural

issues.

Acts of support may be undertaken by a member state for private groups at home or abroad which are related to issues of concern. The province of Quebec has developed a budget for aid to such groups and lends money at a low interest rate to various enterprises. Such aid can be financial, participatory or technical.

Painchaud concluded that while the range of member state activity is wide and parallels that of sovereign states, one cannot evaluate them on the same level. The Quebec government could not for example, be said to have a coherent foreign policy vis-a-vis Europe or Africa, but one could speak of an embryo of a "politique française." While undertaking considerable numbers and types of activities, the international politics of the province of Quebec must be considered fragmentary, since there exists no coherent structure of its international objectives. Participation in an armed conflict does not compare with pressure exerted on a foreign government; a seat in the United Nations does not compare to a seat on the Agence.<sup>11</sup>

Painchaud stated that it was essential to evaluate the importance of a member state's international activities on the basis of its internal responsibilities and objectives. Its international acts should not be judged as though it were a sovereign state, but against its contribution to the success of its internal general goals.

Roff Johansson's study of province-state relations

focused on the relations of the province of B. C. with the United States, and his framework offered a general classification of provincial external relations. He divided province-United States contacts according to the level of authority involved, and then examined other foreign dealings of provinces. The latter relationships he classified into types of international trading activities.

The first category of province-state relations in Johansson's terms is the one which takes place at a "relatively low level of authority."<sup>12</sup> These relations involve the bureaucratic actor, and relate to matters of "relatively minor significance," although the bureaucratic actor is also involved in relations of some constitutional significance.<sup>13</sup> Matters of little import are usually "tightly focussed functional interest,"<sup>14</sup> relating to such things as responsibility for the planning and management of highways and roads, supervision of rivers, and informational exchanges. There are few if any diplomatic implications in these basically informational exchanges, ". . . indeed, they are scarcely perceived as 'international' affairs at all."<sup>15</sup>

In the pursuit of local objectives, consultation with a U. S. border state on matters within provincial authority usually takes place without prior approval from the federal government: "Thus Ottawa is left out of the exchange entirely."<sup>16</sup> Provinces can also have contacts through umbrella agreements between the U. S. and Canada. Factors

underlying bureaucratic involvement in international affairs include geography, constitutional authority, professional expertise, and the need for scale for various projects. His categories of bureaucratic behaviour include professional contacts and membership in professional organizations, consultation, the resolution of common problems through joint efforts, contact through provincial offices abroad, and matters related to the implementation and negotiation of treaties.

The second category is ministerial activity which centres around two areas, unlike the varied duties of bureaucrats. The infrequent ministerial meetings revolve around the starting and finishing of the relationships and agreements worked out in detail by bureaucrats. Ministerial involvement at its highest level is concerned with international agreements, some not sanctioned by the federal government. According to Johansson these ". . . go beyond a literal reading of the provincial powers in the B.N.A. Act."<sup>17</sup>

Ministers also participate in federal treaty negotiations relating both to matters within provincial jurisdiction, and even in matters beyond their authority. Ministerial international activities are inspired in general by geography, ceremonial occasions, functional responsibilities and personal interest.

The international dealings of the premiers parallel those

of the ministers, and involve ceremonial occasions and agreements, with little day to day interaction. The premier ". . . sets the tone for intergovernmental relations, thereby determining whether or not detailed interactions with the U.S. government will develop."<sup>18</sup> His actions are motivated by issues, geography, and goodwill. He is involved with activities related to his status as head of government, (ceremonial) formal and informal consultation, and issues related to international treaties, including sanctioned and unsanctioned negotiations.

The bureaucratic actor is thus the most active, while political actors undertake more constitutionally significant matters on a less frequent basis, usually related to ceremony and treaties. In general, the factors influencing the province of B.C.'s relations with the United States have been geography, constitutional authority, ceremonial goodwill visits and specific issues.

As for relations with other states, said Johannson, ". . . the major functional interest is the growth of the provincial economy."<sup>19</sup> Trade is the first category listed among provincial efforts to "protect, foster and enlarge the local economy,"<sup>20</sup> including export promotion activities and direct contacts between provincial crown agencies and the trading arms of centrally planned economies.

A second category of international trading activity involves efforts to promote exports, through regulations,

which may impinge on Canadian international agreements. Such activity takes the form of direct provincial subsidies, tax rebates and production quotas.

The provinces have constitutional authority in areas such as liquor boards, which allow them to frustrate international trade. Once an action has been identified as posing a non-tariff barrier to trade however, the provinces can be halted through the courts, although Johansson did not mention this.

Financial activity as a category of provincial international involvement relates to the obtaining of operating funds through provincial bonds, and attracting direct foreign investment. This activity may also contradict federal government policies, such as the Foreign Investment Review Commission.

Finally, provinces may play a role in foreign aid, usually in conjunction with the federal government. The provinces can work through federal agencies and provide direct aid to international agencies.

Whatever analytic framework is applied to provincial international relations, the Canadian context for such behaviour is one in which the provinces operate from a position of strength. Not only is Canada characterized by extreme regional diversity, but also by political decentralization, derived from both constitutional and political sources. Constitutionally, the British North America Act has been inter-

preted to the advantage of the provinces, despite the intentions of the authors.

Two cases in particular established the provincial position in Canadian federalism. The 1883 *Hodge v. The Queen* case established provincial legislative supremacy within its sphere of jurisdiction. And as mentioned earlier, the *Maritime Bank v. the Receiver-General* case in 1892 affirmed the position of the provincial Lieutenant-Governor to be equal for provincial purposes to the Governor General's representation of the Queen for federal purposes.<sup>21</sup>

Furthermore, the structure of the Canadian political system precludes the potentially unifying force of an activist Supreme Court. The principle of parliamentary supremacy and cabinet responsibility has placed the Canadian legislative branch, as divided between the federal government and the provinces, above the judicial branch of government. The Supreme Court is limited to determining whether legislation is *ultra vires*, and may not undertake further judicial review.

A variety of political factors have contributed to the decentralization of power in Canada. Donald Smiley notes that:

The story of Canadian federalism from the late 1950's onward is that of the relative weakening of the power of the national government and the strengthening of the provinces. 22

Smiley attributes the trend to such factors as the failure of national economic policies, and the succession of minority national governments in the 1960's. With regard to the same



trend, Paul Fox notes the number of strong premiers in provincial governments, such as Peter Lougheed of Alberta.<sup>23</sup> Contributing to provincial strength and independence is the regionalized nature of Canadian political parties. Paul Fox also points to the increase in provincial gross expenditures, which in turn is related to the growing importance of provincial areas of jurisdiction for Canada's economic and social welfare. Under provincial jurisdiction for example, are matters such as resources, education, highways and welfare. Canada has never felt the unifying impact of an extreme external threat, and there have been few other integrating forces to counter the decentralizing trend.

One of the prime motivators for provincial international activity, as Johannson points out, is the growth of the provincial economy. The existence of purely regional economic interests, combined with the limited attention paid them by federal departments of finance and industry, have led the provinces to ". . . policies usually associated with sovereign states - provincial fiscal policies toward full employment and growth. . ." <sup>24</sup> As Johannson argues, the importance of international trade, investment and exports to provincial economies have projected all three provinces into the international arena. Since the early 1970's, as Sabourin notes, Quebec's international role has shifted to include economic issues previously neglected.<sup>25</sup> Economic relations of the provinces include individual provincial

pursuit of international investment and trade benefits through provincial trade missions, economic agreements, visits abroad of premiers and their ministers, and trade offices in foreign capitals. Along with these provincial initiatives in the international arena, their efforts to stimulate their economies include attempts to influence federal policy in such areas as the General Agreement on Trade and Tariffs, (G.A.T.T.) the limitation of foreign investment through the Foreign Investment Review Agency, (F.I.R.A.) the renegotiation of the U.S. Automobile Pact, relations with the European Economic Community, and international aid through the Canadian International Development Corporation. Johansson's category of provincial interference with federal government policy contrary to their interests also includes the use of non-tariff barriers to trade such as taxes, subsidies and trading corporations. The provinces may also counteract federal monetary policy through international borrowing.

Dissatisfaction with the efforts of the federal Department of Industry, Trade and Commerce to promote provincial exports and encourage foreign investment led to the numerous trade missions sponsored by the provinces and often led by premiers and/or their ministers. Such missions are only occasionally arranged in consultation with the federal External Affairs department, and do not include a federal representative. Alberta for example, sent an economic mission to Japan in September, 1972, headed by Deputy Premier Dr. Hugh Horner

to meet with the Keidanren and discuss trade relations.<sup>26</sup>

In August 1974, Alberta held a trade fair in Japan, this mission headed again by the Deputy Premier and including the Minister of Intergovernmental Affairs.<sup>27</sup> An Alberta trade mission to France in June 1974 emphasized the need ". . . for people and know-how rather than money."<sup>28</sup> The delegation explained that the province would be receptive to proposals for secondary industry and not primary industry investment. This theme was repeated in the much-publicized October 1975 mission to several European states headed by Premier Lougheed.<sup>29</sup>

The province of Quebec has been involved as well in trade missions to New York, London, France and Japan. The France mission was headed by Quebec's Minister of Agriculture in 1974, and included sixty agriculturists.<sup>30</sup> The March 1974 mission to Japan included approximately 200 businessmen and was aimed at reducing the balance of trade deficit which Alberta runs with Japan. The mission was headed by Quebec's Minister of Industry and Commerce and the deputy minister for the portfolio who acknowledged ". . . that Quebec, as a province, cannot talk balance of trade directly with the Japanese."<sup>31</sup> The mission could however encourage Japanese trade and investment in Quebec, hopefully to offset the tendency ". . . in federal initiatives to automatically be of special benefit to Ontario."<sup>32</sup>

Despite the favouritism given Ontario by the federal government's economic missions and policy (at least as per-

ceived by Alberta and Quebec representatives) this province too sponsors trade missions. As M. A. Molot points out, the federal department of Industry, Trade and Commerce simply ". . . cannot be familiar in detail with the products and capacities of every province."<sup>33</sup> Thus in March 1972, Ontario's Minister of Revenue headed a trade mission to the People's Republic of China to hold discussions with members of the Chinese government as a follow-up to a Canadian trade delegation to China in 1971. As a follow-up mission, it was arranged in cooperation with the federal government.<sup>34</sup> The Ontario government trade commission sent a mission to Japan in October 1972 for a ten-day food display. This mission held more than 100 meetings during its visit to discuss licensing arrangements and other joint ventures in a search for ". . . a reciprocal market for our processed goods."<sup>35</sup> One month later the Ontario Minister of Industry and Tourism headed a delegation of financial and technological experts to Japan and South Korea to promote Ontario products and learn about new manufacturing processes. The minister noted that 96 percent of Japan's Canadian imports were raw materials and that Ontario could benefit from more liberalized trading practices which would allow Ontario to supply manufactured goods.<sup>36</sup> In May 1973, Premier Davis of Ontario led a trade and investment mission to London in an effort to encourage investment and allay fears over the federal Foreign Investment Review Agency. He met with the British Minister of Trade and Industry, the Minister

of State for Foreign and Commonwealth Affairs, and British industrialists. He said that Ontario supported only moderate economic nationalism, that is, greater Canadian equity in new capital investment, more Ontario 'value added,' greater processing in Canada of natural resources, and a majority of Canadians on boards of subsidiary companies in Canada.<sup>37</sup>

In another economic visit to Japan in September, 1977, Premier Davis had a difficult time convincing Japanese investors of his ability to mitigate the effects of F.I.R.A. The Japanese spokesmen argued that Canada was not presently an attractive place for investment. A report by the Keidanren, following a visit to Canada, spoke of Canada's labour problems, and the chairman of the board of the Mitsui corporation ". . . cited labour problems, high corporate taxes, and strict environmental regulations as barriers. . ." <sup>38</sup> The Japanese were skeptical of Premier Davis' efforts to downplay federal investment policy, and favoured the continuation of traditional Japanese investment in primary industries. In this instance, a province's efforts to undertake its own international dealings were largely rebutted by a foreign state which preferred to deal with one, and not two, levels of government.

Economic agreements between provinces and foreign states are not as common. The preferred technique is that of encouraging trade and investment through discussions and sales pitches which are less formally structured. Nevertheless, the provinces do have the power to make informal, non-binding

international agreements, as determined by the 1955 Attorney-General for Ontario v. Scott case.<sup>39</sup> In this case, former premier Bourassa of Quebec signed an agreement with Premier Chirac of France for a general programme of economic and technical cooperation on December 5, 1974. Such cooperation was to include the exchange of engineers, managers and technicians, as well as the creation of a Franco-Quebec industrial cooperation group, this group to be responsible to the Quebec Ministry of Inter-Governmental Affairs, and to the French Foreign Trade Ministry.<sup>40</sup>

The province of Quebec's 1975 entente with Iran avoided the generalizations on cooperation included in the Paris agreement. The Gazette termed the Iran accord signed by Premier Bourassa and Prime Minister Hoveyda ". . . a significant milestone in the history of Quebec's [international] relations. . . a substantial commercial agreement. . ." <sup>41</sup> Iran, unlike Japan, is in a position to find trade with Canada beneficial, and the Quebec government's agreement followed on the heels of a Canada-Iran \$1.3 billion trade agreement. In an attempt to diversify its economy and develop secondary industry, Iran signed the Quebec agreement ". . . which ties virtually every sale of tangible goods to the supply of technical assistance." <sup>42</sup> Iran was to buy fifteen semi-mobile units valued at \$45 million, for technical and professional training, from Quebec. This preliminary agreement, which included several such sales, was followed by a series of specific agreements

the following year, one of which was a contract between Hydro-Quebec and the Iranian Department of Energy.<sup>43</sup>

Talks of a natural gas agreement were involved in a visit of U. S. Vice-President Walter Mondale to Alberta in January of 1976, following a trip to Ottawa. Premier Lougheed of Alberta made clear this would involve U. S. tariff concessions on agriculture and petro-chemical products. While Vice-President Mondale was careful to state that his government would negotiate only with the federal government, this formal veneer did not mask the importance of the premier of Alberta to such an agreement. The federal government 'had no objections' to an Alberta- U.S. agreement on trade, provided the federal cabinet retained its veto power.<sup>44</sup>

A measure of the importance attributed to the provincial international economic role is the attention such matters receive from the highest levels of provincial governments. The infrequency of such involvement as noted by Johannson, corresponds with the degree of importance to the matters they do attend. Premiers, ministers and deputy ministers are involved not only in the trade missions but in official visits abroad to promote economic cooperation. These visits are made in consultation with the Federal-Provincial Co-ordination division of the federal Department of External Affairs. The Department of External Affairs takes responsibility, with the provinces paying the cost through the federal intermediary.<sup>45</sup> Trade missions involving a provincial premier

are arranged in this manner, such as Premier Lougheed's 1975 European visit.

These missions, visits and agreements made by the provinces in economic matters have varying degrees of success in terms of their economic objectives. The receptiveness of the foreign state is a factor which may limit their success. But the provinces do succeed in bringing to the states they visit an awareness of their economic priorities and capabilities. The number of activities in this area have been illustrated as a regular feature of all three provinces' international dealings. While their acts would tend more often to fall under Painchaud's category of 'information' rather than 'contractual' or 'cooperation' they would seem, again in Painchaud's terms, to represent one of the conditions for the effectiveness of a province's rule. The objective of the growth of the provincial economy, as Johansson stated, necessitates the multitude of economic and trade contacts built by all three provinces.

Premier Lougheed of Alberta paid an official visit to the United States in June 1976 to meet with congressmen, senators, and officials in the State Department. One year later his trip to the Middle East and the Soviet Union ". . . had been arranged in close consultation with the Department of External Affairs."<sup>46</sup> This was termed a fact-finding mission to help determine Alberta's policy in the areas of oil and wheat production.



The premiers of Quebec and their ministers have made a number of such visits for economic purposes. In March, 1971, Premier Bourassa visited New York in search of foreign investment, in particular a \$300 million bond issue for schools and hospitals, and a \$220 million bond issue for Hydro-Quebec.<sup>47</sup> One month later he left on a trip to Europe with official visits to Belgium, Britain, West Germany, Italy and France, again to attract foreign investors.<sup>48</sup> In London he invited European capital for the \$2500 million James Bay power project, and just over one year later he returned to Britain with the Quebec Minister of Industry and Commerce to bring the matter up once again.<sup>49</sup> During this visit he attended the European Conference of Investors, and claimed that as a result of his efforts, manufacturing projects valued at \$20 to \$30 million would begin in Quebec.<sup>50</sup> In December, 1972, Quebec's Minister of Transport visited the U.S.S.R. to discuss general commercial exchange policy,<sup>51</sup> and in June, 1973, Quebec's deputy premier visited Maine, U.S.A. to discuss oil and electric power problems of mutual concern.<sup>52</sup> Premier Bourassa left in December, 1974, for France with two ministers to deal with the proposed export of enriched uranium from the province of Quebec to France,<sup>53</sup> and left again in October, 1975 for Switzerland, West Germany, Greece and Iran, to discuss economic relations and announce trade agreements worth \$20 million with West Germany, and worth \$600 million with Iran.<sup>54</sup>

Premier Levesque continued the trend with a visit to

New York in January, 1977, and a visit to France in November, 1977, to encourage French economic cooperation.<sup>55</sup> In the spring of 1977 Quebec's Minister of Intergovernmental Affairs visited France to promote economic ties, and two months later Quebec's Minister of Economic Development arrived to discuss specific economic projects such as the exploration of copper deposits in Quebec, the purchase from France of mining equipment and the establishment of a Renault plant in Quebec.<sup>56</sup> In February, 1979, French Premier Raymond Barre visited Quebec and ". . . signed a major agreement on social security."<sup>57</sup> assuring the transfer of social benefits for employees moving between France and Quebec, with the aim of freeing the flow of manpower.

While France has consistently given Quebec government visitors a red-carpet treatment equal or better than that given federal officials, the government of Quebec has not been entirely successful in reducing the deficit with her. France like Japan, has preferred to be cautious in sidestepping the Canadian government's policy on foreign investment.

Premier Davis, apart from his participation in numerous economic missions, has sought to reassure foreign investors of their welcome in Ontario with official visits to West Germany and Britain in September, 1976<sup>58</sup> and New York in May, 1977.<sup>59</sup> Ontario's Minister of Tourism, Claude Bennett, joined Davis on the European trip, which included for guests at every stop a film about Ontario, a panel of speakers to explain the tax system, and available federal and provincial financial

incentives.<sup>60</sup> During his January, 1977, visit to Israel he met with Prime Minister Rabin and reaffirmed his government's stand against the Arab boycott. During an unofficial 1978 visit to Israel he received support for Ontario legislation against trade discrimination because "It could have an effect on the federal government of Canada."<sup>61</sup> This attitude clearly suggests the limits to a provincial concern with broad questions of international relations.

The provinces have been successful in promoting their economic interests through the establishment of provincial offices abroad, a practice permitted under Section 92 of the British North America Act. The province of Quebec presently operates fifteen offices in foreign states,<sup>62</sup> four of which are general delegations and twelve of which are economic bureaus. A sixteenth office is planned for Mexico in 1980.

Since 1970 Quebec has been placing an increasing emphasis on these offices to undertake export and investment promotion. The Financial Post noted this trend in 1972, pointing to the increase in the budget for such matters from \$80,000 in 1967 to \$400,000 in 1972. Eight of Quebec's international offices opened in 1970 or later, her Washington and Atlantic trade and tourist offices opened in 1978, and the Caracas office opened in 1979.

The recognition of diplomatic status of provincial agents-general depends entirely on the inclination of the foreign state. Quebec's Paris representative enjoys such

status, but the Quebec delegation in Brussels which opened in 1972 does not. However the Belgium office was granted ". . . the fullest customs and taxation privileges. . ."64

The international branch of the Quebec Industry and Commerce Department takes charge of the role of these offices, and the concern in the 1970's has been for investment which would benefit the Quebec economy. The head of the international branch stated:

. . . the Quebec bureaus abroad are now looking less for new investment and are trying to promote exports and foster the manufacturing of foreign products by Quebec firms under licensing agreements. 65

The offices do not attempt to duplicate federal efforts in trade promotion, but to organize separate trade seminars to inform foreign investors of the special advantages Quebec has to offer. These special advantages were enumerated in the Fantus studies prepared for the Quebec government by a private corporation to identify ". . . fifteen specific industrial investment opportunities in which Québec is a more favorable location than the rest of North America."66 These studies have enabled Quebec to promote better the province's interests and determine the most favourable location for new offices. In the promotion of exports through such offices, Quebec considers itself in competition with Ontario, and according to Gilles Chatel, the head of the international branch, Quebec is still far behind.

In addition to its own offices, Quebec maintains immigration orientation officers without diplomatic status in

Canadian foreign immigration offices. Under a 1971 agreement between Quebec and the federal government, these orientation officers report to the heads of the Canadian missions and provide to prospective immigrants details on Quebec living and working conditions. The federal government views the step as giving Quebec no special status in the field of immigration. The agreement states:

. . . a Quebec presence in a federal office does not have as its objective or effect to place the Quebec government in a privileged position. . . as compared to other provinces. . . 67

The orientation officers are to advise only those immigrants who have already chosen Quebec as their destination. Nevertheless, the Quebec Minister of Immigration declared upon conclusion of the agreement that it would give Quebec special status in the field, and represented the beginning of a "global immigration policy for Quebec."<sup>68</sup> This statement would seem to be somewhat of an exaggeration of the significance of the move, especially as the federal government said the program would be open to any interested province.

Alberta maintains three offices in London, Los Angeles, and Tokyo. The latter opened in 1970. They take an active part in Alberta trade and investment promotion, using an aggressive approach. Shortly after opening, the Tokyo office reported a great number of enquiries about Alberta products, and its officials continually encourage Japanese investors.<sup>69</sup>

Alberta's agent-general in Britain is concerned as well with Alberta's exports. In 1977 Mr. Pickering reported that

Alberta businesses could 'make a killing' in world trade if they attempted to enter the Commonwealth market. He proposed that Alberta withdraw from the Canadian honey pool to compete as an international exporter for a larger share of the market. He also recommended that Alberta beef be sold on the Commonwealth market to several African buyers rather than concentrating on the United States.<sup>70</sup>

Ontario holds the lead in the number of offices abroad, with a total of sixteen, four of which opened since 1970.<sup>71</sup> Its Paris office opened in 1977, with hopes of attracting French investment. Ontario obtains a disproportionately low share of French trade and investment in comparison to other provinces.<sup>72</sup> While admitting that there is not much likelihood of increasing trade dramatically with France, Ontario Industry and Tourism Minister Claude Bennett will ". . . explore the possibility of joint licensing agreements with French manufacturers."<sup>73</sup> Unlike the Quebec Delegation in Paris, the Ontario House in Paris does not enjoy diplomatic status. Although Claude Bennett said he expected the office would receive the same status as the Quebec Delegation, there was some speculation that the government in Ottawa had urged the opening of the office to offset the presence of the Quebec Delegation.<sup>74</sup> In any case, the French government has refrained from granting such status to the Ontario House. Ontario's London House encourages trade and investment, and also maintains a special immigration staff of five people<sup>75</sup>

to recruit immigrants in industry, medicine and agriculture, according to Ontario's needs.

The Canadian government has rarely interfered with the establishment of provincial offices. However, both the provinces of Alberta and Ontario were prevented from opening Washington offices in 1971. While the offices were to be concerned with export promotion, the provinces were motivated by the United States' economic measures concerning import surcharges through the creation of Domestic International Sales Corporations, (D.I.S.C.) The provinces realized that a better political information system was required from the American capital. American policies were crucial to the well-being of the provinces.

The objection of the federal government related to this political aspect of the provincial offices. As Morris points out, "Problems can become obvious where the provincial office consciously functions as an 'embassy' in competition with representatives of the Ottawa government."<sup>76</sup> Apparently the Paris Delegation of the province of Quebec has a staff and budget rivalling that of the Ottawa government's embassy, and the federal government is determined to prevent the proliferation of such 'mini-embassies.' In the 1979 Paris telephone directory the Quebec office is listed for the first time as 'Ambassade du Québec' rather than 'Délégation Générale' as in previous years. While the French ministry said the delegation was not an embassy, a press official of the Quebec Paris

Delegation was quoted as saying "In effect, it's an embassy. . . . M. Jean Deschamps, the delegate general, is the equivalent of an ambassador."<sup>77</sup> Prior to the May, 1979 election, the federal government was said to be 'looking into the matter.'

The provinces have maintained that they have not been able to rely on the government in Ottawa to relay the specific information required. They have apparently been forced to rely on Canadian Press dispatches.<sup>78</sup> The federal government offered an office in the Canadian embassy in Washington to an Ontario representative, and negotiations between the two governments continued through 1972. This alternative was abandoned in view of several basic complications with a provincial representative in the Canadian embassy. The Ontario representative would have a difficult time operating for his province's interests in the capital without interfering with the single Canadian point of view. Embassy officials foresaw too many difficulties involved in the project<sup>79</sup> and it was abandoned in 1973.

The final arrangement saw a 1973 'Information Flow' program of the Federal-Provincial Co-ordination Division of the Department of External Affairs, in which a senior federal civil servant in the embassy was designated 'provincial interests officer.'<sup>80</sup> The officer sends to the participating provinces Alberta and Ontario selected reports concerning energy development, the Auto-Pact negotiations, trade policy and industrial news. The lack of awareness on the part of the 'officer of the provinces' of the provinces' specific needs led to 'Interchange



Canada' under which federal foreign service officers visit the provinces for briefings. This example best illustrates the delicate and complicated workings of Canadian federalism with regard to provincial international initiatives. The sensitivity of the federal government when combined with the determination of the provinces to pursue their interests, produces extremely complex arrangements.

The international economic role of the provinces is not limited to individual provincial initiative, but includes the demand for provincial input and participation in the federal government's international economic policies and negotiations. The federal government's position at the General Agreement on Trade and Tariff negotiations has a direct impact on provincial exports and industries. While international trade is the federal government's exclusive jurisdiction, the G.A.T.T. negotiations touch on provincial matters such as liquor control boards. Furthermore,

The provinces are now more aware of their interest in international trade matters, and notwithstanding what the Constitution says, will not stand idle if they feel that those interests are threatened. 81

The federal government responded to repeated provincial demands for policy input with the creation of the Canadian Trade and Tariffs Committee in 1973. According to then Minister of Industry, Trade and Commerce Alistair Gillespie, the Committee was to hear briefs from any interested provincial group including labour, agriculture, business and the provincial governments.<sup>82</sup> The provinces protested that the Committee

placed them on the same level as these other groups while they deserved a more direct input as governments with ". . . jurisdictions with a responsibility for overall economic development. . ." <sup>83</sup> This led to the Deputy-Ministers Committee on the Multi-Lateral Trade Negotiations under which the federal negotiating team meets quarterly with provincial deputy ministers of industry. According to Molot, this committee is more useful in terms of passing along information to the provinces than in provincial input to the federal position. The federal government consistently refuses to the provinces representation on the federal negotiating team, as well as observer status. The reasons given are the secrecy of the talks, their technical nature, and the decision of G.A.T.T. participants that only national officials be a part of delegations. <sup>84</sup>

While Ontario is concerned with maintaining protection of its industries in the G.A.T.T. talks, Alberta has joined forces with the three other western provinces to pressure the federal government into lowering the tariff barriers. At the Western Economic Opportunities Conference in 1973, in a joint submission to the federal government in 1975, and in a joint communique in 1977, Alberta has argued that the Canadian tariff structure results in an estimated \$800 million unrecognized 'transfer payment' to central Canada. <sup>85</sup>

The western provinces have called for ". . . a policy of selective tariff revisions to reduce inequities to western Canadian manufacturing. . ." <sup>86</sup> as well as for selective

bilateral agreements with the U.S. to allow their industries to enter the American market. With regard to the latter demand, Premier Lougheed has expressed concern for Alberta's petrochemical industry,<sup>87</sup> and wants to negotiate tariff rates directly with the Americans. The conflicting interests of the provinces with regard to tariffs severely hamper the federal government's ability to formulate a single forceful Canadian position at the G.A.T.T. talks.

The conflicting economic interests of the provinces are also reflected in their reactions to the federal government Foreign Investment Review Agency, introduced in 1972 and implemented in 1975. As Holmes points out: ". . . Canadian nationalism is largely confined to Ontario. . . and is resisted by less favoured provinces that want foreign investment. . ." <sup>88</sup> Ontario, with its well developed manufacturing industry, favours a moderate nationalism and the discouragement of foreign direct, or non-portfolio investment.<sup>89</sup> As discussed earlier, Ontario has attempted to downplay the importance of F.I.R.A. in its trade missions abroad. Though the agency does provide for provincial consultation, the provinces of Alberta and Quebec have been far less receptive to the efforts of the federal government.

The province of Quebec has pointed out that Bill C-132 presumes the existence of a single undifferentiated Canadian economy, which it should not, and that such a policy would only widen the gap between the economies of Quebec and Ontario.<sup>90</sup>

The provinces of Alberta and Quebec are against any discrimination against foreign investors, with much of their effort to improve their respective economies directed towards the attraction of such investment. Their concern over F.I.R.A. relates to the control such an agency gives the federal government over their economies through investment restriction. Canadian nationalism to these provinces would mean the persistence of regional economic disparities and further difficulties in the development of secondary industry. The F.I.R.A. conflict represents one more example of the provinces' lack of confidence in the national government to promote Canada's interests impartially.

Ontario, with an automotive industry supplying 70,000 jobs and 9 percent of the provincial manufacturing employment,<sup>91</sup> has sought to influence the federal government's negotiations with the United States concerning the 1965 Automotive Agreement. This agreement had led to a surplus in trade with the U.S. for Canada by 1970, with a 15 percent surcharge on new cars imported from the Americans. The pact created an integrated Canada-United States automotive industry, with free trade in manufacturers' auto parts. It also included production safeguards for a minimum amount of Canadian value-added in materials and labour for all cars sold in Canada, which benefitted Ontario. The Ontario government submitted a brief concerning Canada's renegotiation of the pact to a November 1971 federal-provincial conference.

The brief urged the government not to yield to the American submission to drop the safeguards, claiming that three-quarters of the automobile industry employment would be lost. Premier Davis sent two telegrams directly to the prime minister in this regard.<sup>92</sup> Premier Davis also argued in May 1973, that the United States D.I.S.C. proposals should not apply where an agreement such as the automotive pact was already in effect.<sup>93</sup> The U. S. automotive company did use the D.I.S.C. program however, and the Canadian surplus turned to a deficit of \$1.9 billion by 1975.<sup>94</sup> After a meeting between Prime Minister Trudeau and President Ford in 1974, both sides initiated studies of their respective industries which were completed in 1977. The Canadian study pointed to a falling Canadian share of the market in the production of auto parts.<sup>95</sup> Under pressure already concerning the deficit, the federal government was also presented with an Ontario government study in the spring of 1978. Criticizing the auto pact, the study stated that if Canada and the United States received equal benefits there would be 25,000 more Canadian auto workers, \$866 million more investment in Canada, along with 2500 researchers.<sup>96</sup>

The federal government held talks with General Motors of Canada, the Ford Motor Company, and Chrysler of Canada, which failed to bring Canada more business. The Canadian federal government then initiated its own study of the auto industry,<sup>97</sup> and in view of the fact that the deficit had been declining since 1976, the Industry and Trade Minister at the time,

Jack Horner announced a delay in renegotiation of the pact. Canadian research and development would be encouraged, and assistance supplied to auto parts manufacturers.<sup>98</sup>

In the case of the federal government's auto pact policy, the Ontario government could be said to be an effective lobbyist. This case contradicts Painchaud's conclusion that member states are not pressure groups in their international dealings, at least in areas where the federal government's jurisdiction is clear.

Quebec's interest in economic relations in Europe led to that province's demands for participation in Canada's role in the European Economic Community (E.E.C.) The 1976 Canada-E.E.C. agreement for economic cooperation set up a number of committees, including a sub-committee on industrial development to determine areas of industrial cooperation. While the federal government had agreed to allow a role for Quebec in this sub-committee, it had apparently withheld the detailed arrangements from Quebec, and the meetings continued without Quebec's presence.<sup>99</sup> Continued delays by the federal government in deciding the form of Quebec's participation strained its relations with the province. Quebec thus refused to participate in subsequent working groups and was denied observer status at the E.E.C.<sup>100</sup> The government of Quebec nevertheless considers that it has a right to participate in the E.E.C., much as it seeks a distinct role in the United Nations Educational, Scientific and Cultural Organization (U.N.E.S.C.O.)

and other international organizations whose activities are relevant to the provinces.

In a similar case, Premier Levesque was accused by Prime Minister Trudeau in the spring of 1977 of attempting to seek separate representation in the Commonwealth. The charge was supported by Commonwealth Secretary-General Shridath Ramphal, who said that Premier Levesque raised the matter during a visit of Secretary-General Ramphal to Quebec, and that a Quebec official had raised the issue during a visit to London. Secretary-General Ramphal had advised Premier Levesque to resolve the matter with the federal government. Prime Minister Trudeau joined the issue with the comment that provision already existed for provincial representation on federal delegations to Commonwealth education conferences. When it was obvious that the Quebec government was seeking a role similar to the one it held within the Agence, Prime Minister Trudeau said that no such status existed within the Commonwealth, where ". . . either you're a sovereign nation or you're not."<sup>101</sup>

The efforts of the Quebec government to pursue an international role separate from the federal government reflect its general foreign policy concerns. Painchaud had pointed out that broad foreign policy objectives, while not forming the basis of provincial activities, are within the domain of provincial initiatives. Painchaud argued that while the foreign policy of the Quebec government remains fragmentary, its Intergovern-

mental Affairs Department has been concerned with developing objectives for an independent Quebec. Subjects under study include the relations of Quebec with the United States and western Europe, international trade, defence, and the legal status of the St. Lawrence Seaway. While the Quebec government must take into account "the structures imposed by Ottawa"<sup>102</sup> while in Confederation, Premier Levesque has also tried to define the province's international presence and objectives for the purpose of the referendum debate. To this end he pledged in March, 1978, that an independent Quebec would join the North American Air Defense Command, and the North Atlantic Treaty Organization, to aid the continental defence structure. In May, 1978, he announced that the government of Quebec would not seek economic association with the United States if Canada rejected sovereignty association.<sup>103</sup>

The provinces have an essentially non-conflictual form of participation in the Canadian International Development Agency. Quebec has concluded several agreements with C.I.D.A. to provide for the province's international aid. For example, a \$30 million aid program to Morocco was negotiated and signed jointly by the governments of Canada, Quebec, and Morocco in March, 1970,<sup>104</sup> with Canada underwriting the cost. Claude Morin, Minister of Intergovernmental Affairs for Quebec, says that such arrangements allow the province of Quebec to take charge of programs in Francophone Africa.<sup>105</sup> According to some authors, Canada's aid and cultural relations with



Francophone Africa over the years ". . . match almost exactly the rising demands of Quebec within Canada."<sup>106</sup> These relations began in 1968 with the Chevrier mission, and by 1973 Francophone Africa was receiving \$80 million, one fifth of the total C.I.D.A. budget.<sup>107</sup> Through such attention to Francophone Africa, the federal government has clearly been attempting to remain Canada's central aid channel and to minimize the Quebec government's international ties.

The provinces of Alberta and Ontario also cooperate with C.I.D.A. They supply expertise and participate with Quebec in Canada's incipient Voluntary Agricultural Development Assistance Agency (V.A.D.A.) which acts as an informal forum for exchanges between the provinces and C.I.D.A. and a means of providing agricultural assistance.<sup>108</sup> International aid is thus one field in which the federal government has remained predominant, with provincial representation in many of Canada's delegations to international aid conferences.<sup>109</sup> The provinces have evidently not attempted to use 'tied' international aid as a means of their own economic development, and the incentive does not exist for provinces other than Quebec to take a more active role.

With the strong provincial motivation to encourage economic development on a provincial and not a national basis, it is not surprising that the provinces have undertaken activity to thwart deliberately the federal government's international trade policies. I. Bernier points out that international trade

regulation, an exclusive federal prerogative, affects a nation without concern for regional economies. Furthermore, economic theory which predicts the eventual equalization of growth across the land ". . . does not take into account the existence of provincial governments responsible before their electorate for the welfare of the province."<sup>110</sup> While the provinces may not control international trade to the benefit of their own industries and exports through tariffs, they have employed several types of non-tariff barriers to trade such as taxes, subsidies, export/trading corporations, and provincial development corporations. Even when provincial actions clearly encroach upon federal jurisdiction, a province will benefit because of the ". . . time required to have legislation declared unconstitutional."<sup>111</sup>

Provincial taxing powers for provincial purposes may be used to control international trade as a non-tariff barrier, as Bernier explains. For the protection of provincial wine companies and breweries, provincial liquor boards discriminate against foreign brands with the imposition of higher taxes. Ontario's 1975 tax rebate for North American built cars served the same purpose. Provincial Treasurer McKeough said the rebate was introduced to stimulate sales and growth in Ontario's automotive industry.<sup>112</sup> It also interfered with Canada's G.A.T.T. obligations, inspiring Prime Minister Trudeau to write directly to Premier Davis protesting that the rebate was international legislation "under the guise of taxation."<sup>113</sup> In this

instance Premier Davis complied by extending the rebate, claiming he had no wish to embarrass Canada or go to court over the matter.

Subsidies are also used by the provinces to affect their exports despite federal trade policy:

. . . if Canada grants tariff concessions on certain products, and the same products produced domestically receive equivalent subsidies from the provinces, the net gain from the point of view of the foreign exporters is nil. 114

One of the difficulties arising from the competitive nature of Canada's governments in this regard is the problem of proving provincial intent in subverting national policy. Ontario's 1973 Industrial Development Corporations Act provides financial assistance to firms on the basis of several qualifying requirements. One of these is the benefit the firm will provide Ontario through the amount of Ontario value-added and Ontario based research. As Bernier illustrates, this requirement by itself would constitute a violation of federal jurisdiction. When this requirement is weighed against many others in a provincial assessment however, it is impossible to prove that the province uses it as the crucial criterion.<sup>115</sup>

Another illustration of the same problem is the favouring of local producers by provincial liquor boards by allowing more domestic than imported wine on the shelves. With their jurisdiction over imports, the boards may restrict foreign brands under the pretext of consumer tastes. Bernier demonstrates this point with a comparison between Ontario's

domestic/imported alcohol ratio of \$53 million domestic/\$33 million foreign in 1973 and Quebec's ratio of \$13 million domestic/\$73 million foreign. Assuming that tastes could not vary so widely province to province, it is impossible to prove that such action constitutes ". . . in essence a subsidy to local producers."<sup>116</sup>

Alberta was one of three provinces to introduce an export development corporation, dissolved after three years in 1976. The Ontario government has occasionally proposed the creation of such a corporation<sup>117</sup> but has not taken action. Export corporations promote provincial exports through the development of new markets and the assistance to private companies. The federal government objects to these corporations for their tendency to ". . . balkanize Canadian trading efforts."<sup>118</sup> Alberta's dissolution of the corporation, ostensibly to strengthen its export performance, meant that its functions would be absorbed by the Ministries of Agriculture and Business Development.

The provincial search for capital in the form of foreign loans has intensified with the increasing efforts of the provinces to expand their economies. Although provinces are permitted to borrow on the international market under the B.N.A. Act, this activity interferes with federal monetary policy. In 1972, then Finance Minister John Turner visited provincial capitals in an attempt to have the provinces limit their international borrowing because of its upward pressure

on the Canadian dollar.<sup>119</sup> He suggested the formation of a central information centre for the federal government to obtain a clear idea of provincial capital needs ". . . in the interests of a reasonable exchange-rate policy. . ." <sup>120</sup> The provinces, especially Ontario, were not receptive to the suggestions of the finance minister. Not only were Canadian interest rates higher, but provincial needs could not be fulfilled on the Canadian market. Finance Minister Turner withdrew his proposals in 1975, the 'national interest' arguments having received no support from provinces with their own interests in mind.

Although arguments of national interest by themselves are meaningless to the provinces, the 1973 oil crisis did have centralizing effects, to such a degree that Gilles Massé, Natural Resources Minister of Quebec at that time warned the Ottawa government not to ". . . take over permanently matters under provincial jurisdiction."<sup>121</sup> The rapid change of heart of the Alberta government concerning the sale of oil in Canada demonstrated a rather contradictory approach to the national interest question. Prior to 1973, the federal government defended itself, with the support of the Alberta government, against a Canadian oil importer for allowing only the higher-priced Alberta oil to be sold in western Canada. The federal government had a nationalist objective, the development of Canada's oil industry. After 1973, however, when the international oil price exceeded that of the Alberta government, the

federal government taxed the province's international sales to subsidize eastern Canadian oil prices, again in the name of national interest. At this point the Alberta government protested that it should be receiving the benefits of its natural resource whatever Canada's trade policy. This was in spite of the fact that part of the nation had been subsidizing Alberta industry before 1973. It was clear that national interest could be supported by the Alberta government only when it would coincide with its provincial interest. This reflects not on the selfishness of the Alberta government as much as on the nature of the Canadian political system, which has been seen not only to encourage conflicting regional interests, but to intensify them.

This remains a problem of a federal system which imposes responsibility for its citizens' economic welfare on both levels of government.

This same difficulty arises in the cultural/social aspect of Canada's international affairs. Both the government of Quebec and the federal government consider themselves the representatives of that province's communications and cultural needs. With a separatist party in power in the province, the competition between the two levels of government is that much more intense. The nature of the province of Quebec's political culture, as developed under the Quiet Revolution, emphasizes a degree of political autonomy for the province in its cultural development. As a result, the symbolic aspects of inter-

national relations are more important to this province than to any other. Quebec thus seeks participation in international conferences and organizations, and seeks such participation in her own name. The federal government, extremely sensitive to a role for Quebec separate from Canada, attempts to channel the province's relations through itself, and nullify claims of a special status.

The provinces' pursuit of their economic interests have been seen to result in complex federal-provincial arrangements. In the case of Quebec, that government's emphasis on an independent role for itself has led to highly competitive relations between it and the federal government. The most outstanding example of this is the manner in which the province of Quebec came to participate in the international Francophone organization, L'Agence de Coopération Culturelle et Technique, (A.C.C.T.). de Goumois terms the agency the 'keystone' for Francophone cooperation.<sup>122</sup>

The first conference to discuss the creation of the agency took place in Niamey in 1969. The Quebec government had intended to send a separate delegation but the federal government's protests led to an agreement whereby the government of Quebec was able to appoint representatives to the single Canadian delegation.

Negotiations also took place prior to the second Niamey conference in 1970 which was to establish the agency's charter. The Quebec government asked to co-chair the Canadian delegation,

but the federal government maintained that Canada could exercise but one vote from one chairman. They agreed finally that the provincial delegates would speak for themselves, and that Canada would sign the charter.<sup>123</sup> The conference witnessed an intense confrontation between the federal and the Quebec governments, with the government of France supporting the position of the province. The government of France moved that membership be open to non-sovereign governments, but the government of Canada, supplying 32.4 percent of the budget, opposed the suggestion.<sup>124</sup> With a small army of legal advisers, the Canadian government argued that the admission of non-sovereign governments would place Canada on the same footing as any Francophone association which might want to join. Prime Minister Trudeau stated in the House of Commons that ". . . only Canada, a sovereign state, can participate as a member in international conferences."<sup>125</sup> The Quebec government was prevented from obtaining direct membership and voting power, but provision was made for admission as a "participating government," subject to the approval of the federal government:

. . . any government may be admitted as a participating government. . . subject to the approval of the member state. . . and according to the modalities agreed between the . . . [participating] government and that of the member state. 126

The matter was thus left to the federal and the Quebec governments to resolve. The new Intergovernmental Affairs Minister of Quebec, Gérard Lévesque, informed the federal government in a letter dated June 11, 1970, of the province's



desire to become a participating government, and demanding talks on the subject. The federal government was not anxious to resolve the question, preferring to continue the type of ad hoc Quebec participation of previous meetings at the October, 1971, conference.

As Claude Morin pointed out: "Pour le gouvernement fédéral . . . il suffisait tout simplement de rendre permanents les arrangements ad hoc qui avaient été élaborés pour les rencontres de février 1969 et de mars 1970."<sup>127</sup> To the Quebec government, this would be bypassing the possibility posed by the clause ratified by Canada allowing for participating government status. The Canadian government argued that it had never liked the clause, that circumstances and pressures had led to the acceptance of it, and that it would now prefer its elimination.

The image problem for Canada which would be posed by an angry Quebec government's absence from the conference gave the province leverage, and an agreement was reached immediately prior to the October, 1971, meeting of the agency, giving Quebec participating government status. The Quebec government could communicate directly with the A.C.C.T. Secretariat, provided this was the result of a 'commun accord.' It could exercise a veto on the Canadian delegation vote on matters of provincial competence, and in effect would dominate the Canadian representation in certain instances. This domination made a mockery of the federal government's insistence that in

principle any province could attain Quebec's status. Yet adherence to the principle was perceived necessary to nullify officially any claims of 'special status for Quebec' and to downplay the Quebec government's special international role.

The Canadian government would pay the delegation's share of the A.C.C.T. budget, with the Quebec government sharing half the cost of the Secretariat.<sup>128</sup> The Quebec government could thus participate in her own name, the absolute minimum requirement for a satisfactory role, according to Maurice Giroux.<sup>129</sup> The federal government could also be satisfied that Canada's single international personality would be preserved. But as Morin points out, the federal government's insistence on the existence of a 'commun accord' prior to the Quebec government's contact with the A.C.C.T. Secretariat in effect limited the province's role:

En conséquence, le Québec est demeuré sous la tutelle entière d'Ottawa qui ne tient pas plus qu'avant à l'établissement de relations trop étroites entre l'Agence et cette province qu'il faut décidément conserver le plus possible. 'comme les autres.' 130

The sparring between the federal and Quebec governments' relates therefore, both to the symbolic significance of the province's role, as well as the ability of the Quebec government to establish and strengthen ties with foreign states.

In another case, the federal government concluded an agreement with the government of Belgium for industrial, scientific, and technical cooperation, without first consulting the government of Quebec. According to Claude Morin, the

federal government was deliberately attempting to prevent a possible special relationship from developing between the province of Quebec and a foreign state other than France.<sup>131</sup> The government of Quebec had been planning a cultural entente with Belgium, and had begun preliminary talks, when Canada informed the province "à la dernière minute" of its cultural accord, which had no provisions for an 'accord cadre,' or umbrella agreement. Presented with the 'fait accompli,' the Quebec government refused to sign the agreement, and abstained from participating under its provisions. The position of the province was expressed in January, 1970, by then Intergovernmental Affairs Minister Marcel Massé on a visit to Brussels. He stated that the province of Quebec wanted much greater and more normal cultural and educational relations with Belgium, and asserted the province's right to develop these relations on her own.<sup>132</sup> In 1971, the federal government concluded another accord with Belgium which was similar to the 1967 accord, this time in consultation with the Quebec government.<sup>133</sup>

The federal government's nervousness over the Quebec government's rapidly increasing network of international ties resulted in the refusal in February, 1978, to allow the province to open its fifth general delegation in Dakar, Sénégal. The delegation would have been the focal point of increased Quebec activity throughout Francophone Africa. The federal government claimed that the activities of the delegation would have duplicated C.I.D.A.'s work in the Canadian embassy, and

offered instead a bureau for Quebec within the embassy. Le Devoir stated that the Quebec government's Paris Delegation operates as an embassy except in name only, and that the federal government felt it could not have its international image further eroded. The province's international relations were beginning to resemble too closely those of a sovereign state.<sup>134</sup> Premier Levesque was correct in stating that the federal government was ". . . trying very hard to make the federal presence felt, rather than the Quebec presence."<sup>135</sup>

The federal government's reaction to the request of the Quebec government apparently caught the province by surprise. It had expected disagreement only over the detailed arrangements. The federal government however, saw the delegation as one more step towards an independent Quebec role abroad.

The anxiety of the federal government over the possibility of Quebec gaining a special status in international affairs means that a tight control and close supervision are maintained over her attendance at all international conferences. Thus the federal government is careful to note in its document on 'Conferences of Education Ministers and of Youth and Sports Ministers of French-speaking countries' that "Quebec has no special status at these conferences."<sup>136</sup> Quebec's Minister of Education headed the Canadian delegation until 1976, and representatives from Ontario and other provinces are included. The same document notes however, that the Quebec government pays half the Canadian budget. Furthermore, as Levy states,

the provinces of Ontario, New Brunswick and Manitoba are suspicious that they are invited by Ottawa not so much out of concern for their Francophone populations but to eliminate the special status Quebec would otherwise maintain.<sup>137</sup>

The government of Quebec attempts on occasion to thwart the centralizing efforts of the federal government. For example, it refused to preside over the Canadian delegation at the 1977 Brussels education conference.<sup>138</sup> And, the proclaimed intentions of a Quebec minister to speak for Quebec and not Canada at the 1977 international water conference made the headlines, as well as unsympathetic reviews in the English Canadian press.<sup>139</sup>

It is as unreasonable however, to condemn the actions of the Quebec government as it is to condemn the federal government's tenacious concern for seemingly immaterial details. These details and symbols hold a very real meaning in international relations, and the federal government has a well-founded fear of the intentions of the Quebec government. On the other hand, the Quebec government considers its actions a natural and inevitable part of the province's cultural and political development. The Canadian political system has simply allowed two governments to make claims on the representation of the same citizens for the same purposes. The Quebec government controls education under any and all circumstances, while the federal government, as a sovereign state, controls international affairs.

However, both levels of government do cooperate on occasion with a minimum of conflict. For example, Quebec posted an 'Educational Advisor' with diplomatic status to Abidjan in 1971, following a ministerial agreement made on recommendation of the Quebec government.<sup>140</sup> Also following consultation with the Quebec government, the federal government concluded a social security agreement with the government of West Germany in 1971, a general agreement with the government of the Soviet Union in 1971, and a general agreement on economic and technical cooperation with the government of Cameroon in 1970.<sup>141</sup>

Furthermore, the Quebec government undertakes extensive cultural and educational international activity. This takes the form of exchanges and cooperation with the governments of France and Louisiana in associations such as the Office Franco-Québécois pour la Jeunesse and the Council for the Development of French in Louisiana. These relations have not sparked controversy, such cooperation not carrying the special status implications of membership and attendance in international organizations.

In marked contrast to the international economic and cultural activities of the provinces, their administrative relationships with American states and Commonwealth nations have produced no internal conflicts. These relations usually involve the lower levels of the provincial government, with premiers or their ministers seldom becoming involved. As

Johannson states, ". . . they are scarcely perceived as 'international' affairs at all."<sup>142</sup>

Only rarely is the federal government involved in provincial administrative relations. The Senate Committee on Foreign Affairs pointed out in this regard that the agreements "are not generally regarded as binding under international law."<sup>143</sup> The agreements all relate to provincial jurisdiction and the federal government is usually not informed. Roger Swanson discovered in his study of 766 agreements reached by all provinces by 1974 that the federal government was involved 15 percent of the time.<sup>144</sup> Howard Leeson's study of 113 interactions of the Alberta government with American states showed that the federal government took part in fifteen, or 13 percent of them.<sup>145</sup>

As most of the relations do involve American states, the federal government has been content to rely upon U. S. restrictions of the international activities of the states.<sup>146</sup> In this low-key context the provinces have responded to their administrative requirements through the settling of agreements, participation in American inter-state compacts, joint membership in international professional organizations of individual officials, informal contacts and occasional meetings and conferences of governors and premiers.

The cross-border administrative agreements of the provinces concern transportation, natural resources, commerce, human services and environmental protection.<sup>147</sup> One common

arrangement is the reciprocal recognition of drivers' licenses and commercial vehicle registration. Arrangements with Commonwealth nations often relate to the administration of justice, such as the reciprocal enforcement of maintenance orders against deserting husbands.

Few of the agreements are concluded in a formal manner. Swanson categorized only 6 percent of the 766 agreements as formal, jointly-signed agreements. In this category is the March, 1973, reciprocal recognition of licensed insurance agents, signed by Ontario's Minister of Consumer and Corporate Affairs and the state of Oklahoma. Understandings in the form of unsigned agreements such as communiqués accounted for 24 percent, including the Maine-Quebec joint communique in 1972 concerning broadcasting. The vast majority of state-provincial relations, accounting for 70 percent, are informal procedures such as meetings to discuss mutual problems and procedures.<sup>148</sup> Leach, Walker and Levy found in a survey that relations of the Ontario government account for more than 25 percent of all province-state contacts up to 1971. Compared with Ontario's forty-eight of the total 170 reported contacts in the survey, Alberta came in second with twenty nine, and Quebec came in seventh place with seven contacts.<sup>149</sup>

The provinces have joined American state compacts with permission of the Canadian government. For example, Alberta is a member of the American Uniform Vehicle Registration Proration and Reciprocity Interstate Compact. Independent of



the federal government, the Ontario government joined the Northern Great Lakes Area Council of 1945. After provincial requests, the Canadian government and the U. S. government exchanged notes in 1970 to permit the provinces of Quebec and New Brunswick to join the Northeastern Interstate Forest Fire Protection Compact. This compact started in 1949 and includes seven American states.

Province and state officials join mutual organizations and hold informal meetings to ". . . get to know each other, exchange ideas, and render each other mutual assistance. . ."150 According to Holsti and Levy, such contacts have "produced an impressive network of intergovernmental associations . . . and a persisting pattern of easy-going, informal contact."151

Swanson claims that 21 percent of all province-state activity involves joint membership in international associations.<sup>152</sup> These associations include the American Association of Motor Vehicle Administrators, the Conference of State and Provincial Health Authorities of North America, the International Association of Governmental Labor Officials, and the Midwestern and Western Associations of State Departments of Agriculture.

The administrative sphere of international contacts not only is conflict-free in the Canadian context, but actually serves to relieve some of the federal government's burdens in dealing with the United States. The Senate Committee claims that such contacts actually reduce tensions with the Americans,

and are more efficient than would be the case if the federal government dealt with administrative border problems.<sup>153</sup>

Furthermore, through the Ontario government's initiatives, the federal government was able to conclude the 1972 Great Lakes Water Quality Agreement with the United States. After a mercury spill by the Americans in Lake Erie, Ontario prepared an intergovernmental conference in September 1970 with Premier Robarts as the host. In attendance were eight American states, two provinces, and representatives from both federal governments. Despite American reluctance to recognize the province's constitutional responsibility, the conference communiqué reflected Robart's position, and a subsequent conference was called for August, 1971. The Ontario government then participated in a working group with Canada and the U.S., whose recommendations were accepted at the 1971 conference. This conference, which approved resolutions calling for a ban on the discharge of commercial vessel waste and the strengthening of the International Joint Commission to enforce it,<sup>154</sup> laid the groundwork for the 1972 federal agreement. Ontario had played a major role in the formulation and execution of the treaty,<sup>155</sup> thereby contributing in a positive manner to Canadian foreign policy making, while serving its international interests.

All three provinces under consideration have been motivated to institutionalize their activities by the volume of their international dealings. According to McLaren, this

'managerial perspective' is an excellent indicator of ". . . the real importance of international affairs to the individual province."<sup>156</sup> Quebec was the first province to introduce a Department of Intergovernmental Affairs in 1967, a revision of the Department of Federal-Provincial Affairs. While the Act creating this department stirred controversy over the role of the minister and the resemblance to the federal Department of External Affairs, Leeson points out that Alberta's 1972 Act creating the Federal and Intergovernmental Affairs Department goes even farther.<sup>157</sup> The Alberta minister is responsible for the coordination of all policies, programs and activities of the government of Alberta and its agencies in relation to the federal government and foreign states. The minister must be a party to all international agreements, and all international affairs are conducted through his ministry.<sup>158</sup>

This same centralization of control occurred in Ontario with an Act in June, 1972 which added 'Intergovernmental Affairs' to the title of the Ministry of Treasury and the Economy. This followed two years of coordination of the external relations of all Ontario ministries.<sup>159</sup> In August, 1978, the Ministry of Treasury, Economics and Intergovernmental Affairs was split, with a separate Ministry of Intergovernmental Affairs created.

Beyond the creation of its Department of Intergovernmental Affairs, the government of Quebec has appointed a registrar for a master registry of all international agree-

ments,<sup>160</sup> most of which are considered ententes, or understandings. In 1973, the Quebec government had 130 people working for the province in foreign states,<sup>161</sup> and in 1977 Premier Levesque appointed a permanent delegate to international organizations.<sup>162</sup> During the premier's 1977 visit to France, an agreement was made to institute regular yearly visits on a formal basis.<sup>163</sup>

Ontario introduced a Trade Development Division in its Ministry of Industry and Tourism in 1973, to aid provincial exporters with a systematic marketing program.<sup>164</sup> This division has its parallel in the federal Department of Industry, Trade and Commerce. All three provinces have therefore assigned a degree of importance to their international dealings and the trend exists towards even greater institutionalization.

\* If Painchaud's approach is to be taken into account, the international affairs of the provinces should be judged not only in the context of their effect on the central government's foreign policy making. Rather the province's foreign affairs must be judged according to its internal objectives. This relates to how well Canadian federalism allows the provinces to identify and pursue their international objectives. If the government of Quebec's internal cultural and education policies depend upon international contacts, then not only must the success of these contacts in serving these goals be evaluated, but the ability of Quebec to establish international contacts. All three provinces in the 1970's have

been seen to respond to internal objectives with efforts to pursue them on an international scale. Particularly in the economic field, the provinces have clearly defined interests which they attempt to pursue. Despite an array of provincial international initiatives, the federal government has kept careful limits to the international capacities of all three provinces.

None of the three theoretical classifications offered by Johansson, Painchaud and Morris offers adequate categories for provincial international activities, or clear definitions of the limits to acceptable provincial international behaviour in a federal system. Morris' variables for acceptable provincial behaviour are placed entirely within the context of the federal government's foreign policy capacity. The call for prior consultation on all provincial international activities is simply unrealistic in terms of the vast numbers of international contacts made by provinces. His recommendation of increased federal-provincial cooperation can apply only to those areas under federal jurisdiction in which the provinces have an interest, such as G.A.T.T. As Painchaud emphasized however, the aspect of provincial foreign affairs which can be seen as pressure group activity is limited.

Painchaud's description of the 'diffraction' of federal regimes comes closer to characterizing provincial international affairs. The Canadian provinces have been seen to engage in foreign affairs at many levels in response to internal needs.

Yet Painchaud's categorization of acts as contractual, informational, cooperative, opposing and supporting is not a workable framework for provincial international activities either. These broad categories mask the complexity of provincial initiatives within the many types of 'cooperation' or 'information' undertaken. While the categories do indeed cover the ways in which a province pursues its international objectives, they offer no perspective on the acceptable limits to provincial behaviour. They do not take into account the federal-provincial relations and negotiations underlying a multitude of provincial international acts. While recognizing a basic distinction between the international roles of a sovereign state and a member state of a federation, Painchaud has produced a framework that tends to ignore its implications.

Johannson's approach to provincial international affairs based on the level of authority involved was helpful in clarifying types of provincial activities. The 'bureaucratic' level was indeed shown to be an area of provincial activity conducted independently of the federal government on an everyday basis. The involvement of ministers and premiers was a signal for the significance of a province's actions in terms of its internal interests.

Johannson's categories of provincial international economic activity fairly represent the outline offered of a range of provincial relations. Provincial pressure on the federal government in areas of federal jurisdiction which are

of interest to the provinces is a category of activity which is missing from his typology.

Clearly, provincial international activity in the areas of the economy, culture, and administration is wide in scope and quite extensive. This has been seen to interfere with the federal government's ability to conduct its foreign relations in a comprehensive manner. Johannson agrees that this activity serves to ". . . complicate the design and conduct of Canadian foreign policy. . . to frustrate central control. . ."165

As well, the provincial role projects a ". . . confused image of Canada. . ." and opens the possibility of foreign interests "to play off province against province. . . to use a provincial government as a proxy to get concessions from Ottawa."166 The Japanese in particular were not impressed with the conflicting aims of two levels of authority.

Only in the area of international administrative relations were the provinces found to contribute to, rather than complicate, the federal government's foreign policy making. The conflictual federal-provincial relations in the economic and cultural fields however, could not be resolved with the centralization of foreign policy making power. The federal government lacks the specialized knowledge, skills and authority to fill the often conflicting needs of Canada's various regions. With the impact of international events and developments on the provincial sphere of jurisdiction it seems, according to one author:

. . . untenable for the provinces to allow the federal government the sole propitiary right to participate in international negotiations concerning matters within provincial competence simply because external affairs are involved. 167

While cooperation has been seen to occur between the federal government and the provinces, the conflicting interests of Canada's regions ensure greater discord than harmony. The strength of both levels of government in this decentralized system has meant that when cooperation does occur, it takes the form of competitive bargaining to produce complex arrangements. The Quebec government's emphasis on not only international competence sought by other provinces but an international role, changes the nature of its relations with the Ottawa government. This province seeks not only substantive benefits but a symbolic role in accordance with its national identity. Thus the province's attendance and membership in international conferences and organizations becomes a contest between it and the federal government. The concern of the federal government over a province's activities depends on its ". . . manner of submitting claims, whether they come from 'séparatiste' . . . or 'fédéraliste' quarters." 168

The relations of the federal government with the provinces of Ontario and Alberta are of a conflictual nature in many of their foreign affairs activities. The struggle of the federal government with Quebec however, surpasses these conflicts in the effort to achieve legitimacy with the French-Canadians. Given the perceptions of all three provinces that



the provincial government is an appropriate and legitimate instrument for the realization of regional goals, the outcome of these contests is yet unclear.

- <sup>1</sup>Morris, Canadian Perspectives, p. 59.
- <sup>2</sup>Ibid., p. 63.
- <sup>3</sup>Ibid., p. 65.
- <sup>4</sup>Ibid., p. 66.
- <sup>5</sup>Ibid., p. 67.
- <sup>6</sup>Ibid.
- <sup>7</sup>Ibid.
- <sup>8</sup>Ibid.
- <sup>9</sup>Paul Painchaud, "Fédéralisme et Théories de Politique Etrangère," Etudes Internationales 5 (1974) : 30.
- <sup>10</sup>Ibid., p. 33.
- <sup>11</sup>Ibid., p. 39.
- <sup>12</sup>Roff Johannson, "Provincial International Activities," International Journal, 33 (Spring, 1978) : 366.
- <sup>13</sup>Roff Johannson, "B.C.'s Relations with the U.S.," Canadian Public Administration 21 (1978) : 223.
- <sup>14</sup>Johannson, International Journal, p. 366.
- <sup>15</sup>Ibid.
- <sup>16</sup>Ibid.
- <sup>17</sup>Johannson, Canadian Public Administration, p. 224.
- <sup>18</sup>Ibid.
- <sup>19</sup>Johannson, International Journal, p. 370.
- <sup>20</sup>Ibid.
- <sup>21</sup>R. J. Cheffins and R. N. Tucker, The Constitutional Process in Canada, 2nd ed. (Toronto: McGraw-Hill Ryerson Ltd., 1976), p. 31.
- <sup>22</sup>Smiley, p. 3.
- <sup>23</sup>P. W. Fox, "Regionalism and Confederation," Ontario Advisory Committee on Confederation, 2, p. 17.
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- <sup>25</sup>L. Sabourin, "Quebec's International Activity rests on Idea of Competence," International Perspectives (March/April, 1977) : 7.
- <sup>26</sup>Canadian Institute of International Affairs, International Canada Toronto 3, September, 1972.
- <sup>27</sup>The Globe and Mail (Toronto), 21 August 1974.
- <sup>28</sup>The Citizen (Ottawa), 4 June 1974.

- <sup>29</sup>Canadian Institute of International Affairs, 6, October 1975.
- <sup>30</sup>Ibid., 5, February, 1974.
- <sup>31</sup>The Globe and Mail (Toronto), 5 March 1974.
- <sup>32</sup>Ibid.
- <sup>33</sup>M. A. Molot, "External Economic Relations of the Provinces," Carleton University Conference on the Federal Dimension in Canadian External Behaviour, November, 1975, p. 6.
- <sup>34</sup>Canadian Institute of International Affairs, 3, February and March, 1972.
- <sup>35</sup>Ibid., 3, October, 1972.
- <sup>36</sup>Ibid., 3, November, 1972.
- <sup>37</sup>Ibid., 4, May, 1973.
- <sup>38</sup>Ibid., 8, September, 1977.
- <sup>39</sup>Gotlieb, p. 25.
- <sup>40</sup>Canadian Institute of International Affairs, 5, December, 1974.
- <sup>41</sup>The Gazette (Montreal), 19 November 1975.
- <sup>42</sup>Ibid.
- <sup>43</sup>Canadian Institute of International Affairs, 7, July and August, 1976.
- <sup>44</sup>The Province (Vancouver), 19 January 1978.
- <sup>45</sup>Federal Provincial Relations Office, Federal-Provincial Programs and Activities - A Descriptive Inventory, 1977 - External Affairs (Ottawa, 1977), p. 53.
- <sup>46</sup>Canadian Institute of International Affairs, 8, June, 1977.
- <sup>47</sup>Ibid., 2, March, 1971.
- <sup>48</sup>Ibid., 2, April, 1971.
- <sup>49</sup>Ibid., 3, November, 1972.
- <sup>50</sup>Ibid., 3, December, 1972.
- <sup>51</sup>Ibid.
- <sup>52</sup>The Globe and Mail (Toronto), 12 June 1973.
- <sup>53</sup>The Canadian Institute of International Affairs, 5, December, 1974.
- <sup>54</sup>Ibid., 6, October, 1975.
- <sup>55</sup>Ibid., 8, November, 1977.
- <sup>56</sup>Ibid., 8, April and June, 1977.

- <sup>57</sup>The Globe and Mail (Toronto), 13 February 1979.
- <sup>58</sup>Canadian Institute of International Affairs, 7, September, 1976.
- <sup>59</sup>Ibid., 8, May, 1977.
- <sup>60</sup>The Globe and Mail (Toronto), 25 August 1976.
- <sup>61</sup>Ibid., 21, September, 1978.
- <sup>62</sup>New York, Brussels, Paris, London, Milan, Boston, Chicago, Los Angeles, Lafayette, Dallas, Dusseldorf, Port-au-Prince, Tokyo, Washington, Atlanta, Caracas.
- <sup>63</sup>The Financial Post, 4 March 1972.
- <sup>64</sup>The Citizen (Ottawa), 29 September 1972.
- <sup>65</sup>The Gazette (Montreal), 6 March 1974.
- <sup>66</sup>Ibid.
- <sup>67</sup>The Canadian Institute of International Affairs, 2, May, 1971.
- <sup>68</sup>Ibid.
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<sup>85</sup>Ibid., 6, February, 1975.

<sup>86</sup>Ibid., 4, July and August, 1973.

<sup>87</sup>The Herald (Calgary), 15 December 1976.

<sup>88</sup>J. W. Holmes, "Impact of Domestic Political Factors on Canadian-American Relations: Canada," International Organization 28 (1974) : 620.

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<sup>97</sup>The Province (Vancouver), 10 June 1978.

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<sup>99</sup>The Star (Montreal), 28 July 1977.

<sup>100</sup>The Citizen (Ottawa), 14 September 1977.

<sup>101</sup>The Province (Vancouver), 22 June 1977.

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<sup>158</sup> Ibid., p. 55.

<sup>159</sup> Levy, Le Canada et le Québec, p. 142.

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<sup>163</sup> The Herald (Calgary), 11 January 1978.

<sup>164</sup> The Canadian Institute of International Affairs, 4, June, 1973.

<sup>165</sup> Johannson, International Journal, p. 357.

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## Chapter IV

## POLITICAL CULTURE AND INTERGOVERNMENTAL RELATIONS

There is a powerful relationship between political culture, (the political attitudes and forces behind political structures) and provincial international behaviour. As Painchaud states:

la composition ethnique, de même que la culture politique, constituent. . . [des] variables qui favorisent ou freinent, selon le cas, les responsabilités internationales des Etats fédérés. 1

Divergent provincial political cultures bring with them varying attitudes to their foreign affairs roles. A province's perception of its place in the federal system, and its definition of the 'national interest' in a federal state, makes a great deal of difference to the type of international behaviour it will pursue and the federal government's acceptance of it.

While Canada has commonly been analytically divided into large regions encompassing more than one province, the nature of the political system leads ". . . territorially based interests to find an almost exclusive outlet through the provincial governments."<sup>2</sup> Such interests have not found expression at the federal level. Despite their regional representation, neither the Senate nor the cabinet acts as an outlet. Nor does the electoral system provide regional

representation proportional to the popular vote. The inadequacy of the federal government in this regard is evidenced in growing provincial demands for provincial appointments to federal regulatory agencies such as the National Energy Board, the Canadian Transport Commission, and the Canadian Wheat Board, as well as appointments to the Supreme Court of Canada. Premier Lougheed of Alberta has been extremely vocal in this regard.<sup>3</sup>

Canadian political scientists argue that the provinces comprise distinct political systems within the Canadian whole, with ". . . distinguishable socio-political communities at the provincial level."<sup>4</sup> Other authors have noted ". . . systematic variations in basic orientations towards politics from province to province. . ."<sup>5</sup> In discussing provincial international roles therefore, one must take into account the distinguishing political characteristics of the provinces of Quebec, Ontario and Alberta. These political culture differences will account not only for the nature of each province's relations with the federal government, but will help determine the legitimate limits to its role abroad.

Canada's most pronounced regional cleavage in terms of political culture is that which exists between French and English Canadians. As Van Loon and Whittington state, the cultural cleavage is deep, but ". . . it is the coincidence of the ethnic dimension of this cleavage with economic, geographic and religious cleavages that has made it loom so important."<sup>6</sup>

Since the Quiet Revolution, the Québécois political culture has involved a strong orientation towards its provincial government as the tool for both the protection and development of the French community. The emphasis has shifted, as Smiley notes, from mere 'survivance' to 'épanouissement.'<sup>7</sup>

The French Canadians see themselves as comprising a nation seeking political control over its own destiny. This attitude distinguishes Quebec from all other provinces. It explains the province's approach to a foreign affairs role, inasmuch as the competence of the Quebec government to undertake international activities is perceived as essential, as are relations with other Francophone nations. In outlining the objectives of Quebec's international relations, Quebec's Minister of Intergovernmental Affairs, Claude Morin writes in terms of fulfilling Quebec's economic, cultural and immigration requirements. He explains how the province of Quebec, through the opening of delegations, the trips of government ministers, the signing of ententes, the participation in international conferences, and general exchanges, ". . . a commencé à être reconnu de par le monde."<sup>8</sup> Clearly, as Painchaud states, Quebec's international role is seen as part of the socio-political development of a distinct national community.<sup>9</sup> Behind the province's international role since the Quiet Revolution, and under several different governments, a philosophy of an emerging nation's development and needs has presided. It remains inconceivable for the government of Quebec to submit its international affairs

to the paternal care of the federal government. As one Québécois author states,

Ce dernier, en maintenant les Québécois en situation de minorité dominée, accepterait ainsi de prolonger la conquête de 1760. . . 10

Conflictual federal-provincial relations are reinforced with this underlying French-English tension. The Québécois carry a deep resentment of the consequences of the conquest, and the attitudes traced back to Lord Durham's Report which called for the assimilation of the French Canadians into English society. The pervasive Québécois sentiment of occupying second-class status is not without basis. John Porter in The Vertical Mosaic documented the lower socio-economic positions held by French Canadians, as well as their lower representation in the ranks of political and civil service posts. The determination of Quebec's leaders to alter these circumstances and combat the shrinking of the French population has led to much of the province's international activity.

In marked contrast to the Quebec government's approach to foreign affairs, the political cultures of the provinces of Ontario and Alberta give rise basically to a pragmatic concern for provincial economic interests. Ontario occupies a position of dominance in Canada, both economically and politically. The manufacturing centre of Canada, Ontario, "By every standard. . . is and always has been the first and foremost 'have' province in Canada. . ." <sup>11</sup> With Ontario bureaucrats pervading the federal civil service, and the importance of the province to

federal political parties in elections, it comes as little surprise that "Ontario identifies nation and province in a way that no other province can or does."<sup>12</sup> The identification of Ontarians with Canada results in an entirely different perspective of the role of the provincial government, as compared with Quebec. "They identify with the federal government and see it as more important than the provincial government [and are] more likely to regard the federal government as their government."<sup>13</sup> While the province of Ontario does undertake international activities, these are mainly oriented towards the protection of its dominant position in Confederation and the expansion of its economy. There being little or no conflict between the national interest and Ontario's interests, the role of the federal government in international affairs is accepted as paramount and overriding.

The province of Alberta, despite its oil wealth, shares the traditional grievances of western Canada concerning federal economic policies which favour central Canada. If representatives of Quebec see Confederation as a 'two-nations' concept, with Anglo domination of French Canada, those in Alberta relate to a hinterland-heartland economic concept. Specifically, Canada's tariffs protect Ontario's manufacturing industry, whose goods are sold in western Canada at prices that are higher than international prices. Western discontent also relates to discriminatory freight rates, the operation of commercial banks, and monetary and transportation policy.

Alberta feels most deeply the 'obstruction' of the federal government which has prevented fuller development of industries in that province and has appropriated its oil wealth to the whole country. 14.

The forum for this regional discontent has not been the federal government. Rather, ". . . the governmental party. . . became the predominant instrumentality. . ."15 Despite the popular sentiment that the federal system does not work for Alberta's benefit, there is ". . . little question that Albertans are confident of their own ability to develop the province's natural resources. . ."16 This confidence translates into tough intergovernmental relations with Ottawa over the province's resources. In the 1970's, Premier Lougheed's stand with the federal government earned him a reputation which the Montreal Star recognized in 1977, "If Premier Levesque seeks political sovereignty within an economic union, then Lougheed's actions seem to be taking him towards economic sovereignty within a political union."17

Alberta's role in foreign affairs is thus more competitive with the federal government than that of Ontario, but the federal-provincial strain is different in nature to Quebec's 'nationalist' approach. Alberta looks after itself internationally because of the federal government's neglect in doing so, not because such provincial involvement is deemed necessary for its own sake. Alberta's international needs are seen as clear-cut, the only question being whether they are served by the federal or provincial government. Quebec's international needs are not as clear, and thus cannot be defined and met by

an Anglophone dominated federal government. Such was the message that Premier Lougheed gave the provincial legislature in 1977. Unlike Quebec premiers, he was careful to assure his audience that he was a Canadian before an Albertan. He then explained the necessity of the province's international activities as arising because Ottawa was not doing a satisfactory job. Though the 'Canada first' attitude usually maintained by the premier removes the edge of tension from its international dealings, this has not prevented Alberta from showing an aggressive, competitive spirit in pursuing its international needs.

The three provinces all approach foreign affairs issues as they would any other federal-provincial conflict, and it is ". . . not singled out for special treatment because it is related to the international system. . ." <sup>18</sup> While their approaches to an international role vary according to the subject area, a common presumption underlies all provincial activities, that of the legitimacy of provincial involvement in foreign affairs. While Ontario comes close to a willingness to recognize exclusive federal legitimacy, this is but a strategy to prevent the opposing economic interests of other provinces from prevailing. To the federal government, foreign affairs is 'not an issue like the others' because of its link with sovereign status. Particularly sensitive to the activities of the Quebec government, the very disunity of the nation has led the federal government to insist that when provincial

interests are channelled abroad they are represented primarily through the federal government. The federal government has been successful particularly with regard to the official levels of international relations, including international conferences and organization, and less effective in supervising and controlling the extensive unofficial dealings of the provinces. As the federal government has consistently failed to meet the expanding needs of Canadian provinces, and could not feasibly respond to their international requirements, strict official diplomatic control over formal relations has been the limit of its control. Many of the conflicts of the 1970's related to provincial demands to expand their roles into the international diplomatic arena, and federal resistance to this. Whether the provinces will play a significant role in the many international issue-areas, therefore, depends to a great extent on the diplomatic importance of the matter in the eyes of the federal government.

Given the distinctions among provincial political cultures, one should not expect similar approaches to the concept of federalism. It is true for Ontario, and very nearly so in Alberta, that ". . . la relation Ottawa-province en est souvent une de supérieur à inférieur,"<sup>19</sup> while Quebec representatives consider the two governments as equals. For the same reason, those in Quebec tend to interpret federalism on a sociological basis, while English-Canada views federalism in legalistic terms.



Common to all three provinces however, is a growing conviction that the federal government does not represent the national interest. Rather, national concerns can only be met through the coordination of federal and provincial efforts. The federal government, while insisting on equating 'national' with federal institutions, has not been successful in acting as a broker to accommodate provincial interests. The necessity of a dominant central government, particularly in economic and fiscal affairs, (that is, taxation, welfare and public spending) was supported by Keynes' theory of the role of government in regulating economic trends. This doctrine was so convincing:

that the provincial policy-makers believed it themselves and could not escape the haunting suspicion that the conclusions drawn in Ottawa as to the need for federal supremacy were probably correct. . . This myth lives on in the notion that somehow the federal government inherently is, and ought to be, superior to the provincial governments. 20

The growing and persistent challenge to this doctrine by the provinces of Quebec and Alberta is behind much of their international activity and demands. According to William Johnson, the challenge to the federal government's right to speak for Canada did not originate in Canada's west: "The concept of a national policy as distinct from a federal policy was put forward by Arthur Tremblay,"<sup>21</sup> Bourassa's deputy minister of intergovernmental relations. Johnson states:

The doctrine grew in popularity as provincial civil services grew larger in the past decade, as provinces established departments dealing with federal, prov-

incial and interprovincial relations. The provinces, at least the larger and richer ones, began to feel that they knew as well as Ottawa what is good for the country. 22

The question of who speaks for Quebec, as Johnson points out, is a matter of dispute between the federal and provincial governments. The same is true for the province of Alberta, the mandate of each government to represent citizens on international economic issues being far from clear. The identification of Ontario's interests with those of the federal government, a widely recognized circumstance, accentuates the lack of clarity for the roles of Alberta and Quebec in national affairs. The tendency for the provinces is to view their jurisdiction as encompassing the general economic and cultural well-being of their citizens, including the extension of this responsibility to the international arena. With the exception of Ontario, the provinces have little faith in the federal government as representative of their interests, and they consider provincial international activity a necessary and legitimate exercise.

A 1977 Gallup poll supports this assessment of provincial conceptions of federalism. The survey questioned the public as to whether the federal or provincial governments should rightfully gain more powers. Of the Quebec population, 63 percent favoured more provincial power, only 10 percent believing that federal authority should be increased. The prairie provinces had 44 percent favouring greater provincial

powers, with 7 percent siding with the federal government. In the province of Ontario, 36 percent favoured increased provincial powers, with 14 percent calling for increased federal authority. Ontario and the prairie provinces favoured by 39 percent and 38 percent respectively the present power distribution, in comparison with a meager 19 percent in the province of Quebec supporting the status quo.

These figures correspond with the political culture differences outlined above. Quebec stands out as the most alienated province in the Canadian political system, looking to its provincial government for leadership, and very dissatisfied with the extent of federal powers. Alberta's dissatisfaction with its economic standing in Confederation is reflected in the desire for greater provincial powers, although the dissatisfaction is not as accentuated as it is in Quebec. After all, a sizable minority in Alberta is satisfied with the present distribution of powers. Ontario, while not far removed from Alberta's position (as a member of the prairie provinces) does take a more moderate stance on provincial powers in accordance with its influence at the federal level. In general, the provinces may be said to view Canadian federalism as a system which must allow for the diverging interests and values of the provinces to be reflected on the international scene.

These basic approaches towards Canadian federalism and the roles of the provinces in international affairs, based as

they are on political cultures, translate into conflictual or consensual relations with the federal government. Clearly, the nature of each province's relations with the federal government, and provincial intra-relations, comprise constraints on the acceptable limits to provincial international behaviour. As a model for analyzing these relationships, Tarlton's concepts of symmetry and asymmetry focus on the various ways in which each province relates to the central government.

The concept of symmetry allows for the classification of federal relationships according to ". . . the level of conformity and commonality in the relations of each separate political unit of the system to both the system as a whole and to the other component units."<sup>24</sup> The symmetrical model at its functional ideal would be found in a federal state whose component territories featured similar economic and socio-cultural conditions and whose relationships to the central government would be comparable. There would be no divisive socio-economic issues nor different approaches to the political system, and ". . . each of the separate political units would in effect be miniature reflections of the important aspects of the whole federal system."<sup>25</sup> The ideal asymmetrical federal model, on the other hand, would be comprised of political units with widely differing political cultures and interests. Each political unit would have distinguishing characteristics setting it apart from features of the rest of the system. The asymmetrical federal system would ill afford a definition of

interests and features which would be national in scope.

Conflict in a federal system then, argues Tarlton, between the regional and central governments ". . . can be thought of as a function of the symmetrical or asymmetrical pattern prevailing within the system."<sup>26</sup> The viability of the federal state depends upon the predominance of harmonious relations and forces of unity as opposed to a greater degree of divisiveness. Using the United States as an instance, Tarlton pointed to the California of the 1960's as an example of symmetry within American culture, and Mississippi as a state distinguished from the ". . . social, economic, cultural, and ideological configurations of the nation."<sup>27</sup> Conflictual federal-state relations would be likely to be more frequent and intense in the latter case. The analysis of Canadian federalism and conflicts must take into account therefore, the extent to which the provinces participate in the mainstream of Canadian political, cultural, and economic life.

What must be noted, is that a province may participate in a nation's cultural but not economic mainstream, which is partially true of Alberta, a province clearly set apart in the economic context. The province of Quebec may be seen as more integrated in the economic sphere but clearly distinguished in terms of culture. The province of Ontario alone has set the Canadian 'pace' in all subject areas. Thus one would expect conflictual relations between the federal government and the Alberta government over economic but not cultural matters,

between the federal government and the Quebec government primarily over political, cultural and social autonomy in international relations, and minimal conflict between the Ontario government and the federal government over the latter's occasional deviation from Ontario's economic interests.

Tarlton's model must in this respect be refined to accommodate the possibility of a combination of conflictual and consensual federal-provincial relations, depending upon the subject matter.

The setting for the conduct of conflictual/consensual federal provincial relations is a nation with confused goals, and clearly conflicting economic and cultural interests among the provinces. The federal government is forced into the position of broker in these interests in domestic and international relations. Yet the competitive atmosphere of Canadian federalism, as opposed to a climate of cooperation, serves only to heighten existing intergovernmental conflicts. The philosophical struggle is strongest between Quebec and the federal government, the latter insisting on its representation and responsibility for the welfare of all French Canadians, and the former convinced of its mandate to guarantee French Canadian interests.

The disunity of Canada has been responsible for the federal government's continued insistence on a monopoly over high-level official relations. International conferences, organizations, and negotiations, as well as diplomatic status, are jealously guarded by a federal government insecure in its

sovereign status. Quebec, with its search for political autonomy and 'national' characteristics, clearly represents the most potent threat to the federal government in this regard. Quebec's international role may be seen in that province as a natural projection of an emerging community's development, but the federal government thinks only in terms of containing its role within safe limits. Such concern is hardly raised with regard to Ontario, and this province along with Alberta is given a freer hand internationally. Their place in Confederation is not as strongly questioned. Both provinces express support for the Canadian political system. In Alberta furthermore, only the fairness of the distribution of Canadian wealth and industry is being questioned, and not basic political authority and legitimacy.

The federal government may be expected therefore, to react differently to the international initiatives of the provinces, and to carry on relations with them which may be conflictual depending not only on the subject matter, but on the compatibility of the province's political culture with the attitudes in Ottawa. The acceptable limits to a provincial role are therefore complex, as each province will place varying amounts of emphasis on a particular issue and the manner in which it will pursue it. The federal government may react differently to extremely similar international initiatives of various provinces, the only outer limit to any province's role being the official integrity of the federal government and its

monopoly over high-level relations.

While the Ontario government has taken a significant interest both in developing relations with foreign states and participating in the formulation of Canadian foreign policy, one would expect, according to Tarlton's model, fewer conflictual relations between this province and the federal government. Ontario being the dominant province, whose economic interests have consistently been made federal policy, has citizens more likely ". . . than residents of other provinces to identify with Canada as such."<sup>28</sup> Ontario not only participates most in the Canadian mainstream but also defines its predominant cultural, economic and social characteristics. The preponderance of Ontario bureaucrats and politicians in the federal arena, combined with the strategic importance of the province for a federal political party, have meant that Ontario has not found it necessary to spar with the federal government in order to have its interests served.

While intra-relations in Ontario may not be consensual, there is common agreement on Ontario's role in Canada and abroad. Conflict does not characterize Ontario's relations with the federal government in the area of foreign affairs, but there has been intense conflict over tax sharing and shared cost programs. Clearly for the province of Ontario, ". . . the key aspect of federal-provincial relations is finance. . . not constitutional nor jurisdictional matters."<sup>29</sup> The federal government's international dealings have tradition-



ally suited Ontario's economic needs (as in the case of tariffs) and Ontario has been unhampered in its own extensive search for foreign economic investment. The exceptions to the smooth relations are few, compared to those of Alberta and Quebec, and are related to economic matters. The Foreign Investment Review Agency, an attempt to limit foreign investment, was met with some consternation in Ontario, albeit without the angry resistance put up by other provinces. Aside from discreet lobbying against the agency, Ontario has chosen to downplay the importance of the agency in visits abroad, arguing that its functions are limited in comparison with the protection used by other states.

The 1971 United States import surcharges act creating Domestic International Sales Corporations (D.I.S.C.) represented another threat to Ontario, which found the federal government too slow in passing on vital information. This led to the conflict over provincial representation in a Canadian embassy, resolved with the 1973 'Information Flow' program. The factor in this conflict was the federal government's insistence on maintaining the only 'official' international relations.

The renegotiation of Canada's automotive pact with the United States also concerned vital Ontario economic interests, and Ontario let its views be known in a brief to the 1971 federal-provincial conference, and in two telegrams to the prime minister. Such anxiety over the federal government's stance was in fact unwarranted, since the position of the

federal government reflected that of Ontario. Ontario's efforts to influence and guide the federal government's foreign relations in areas of its own economic interest are often in direct conflict with the economic interests of the western provinces. In the case of the G.A.T.T. negotiations, Ontario's economic needs and those of Alberta are in opposition on many points. As G.A.T.T. negotiations involve high level diplomacy however, both provinces have had to content themselves with what mechanisms the federal government has been willing to instigate. Provincial representation at the negotiations has been considered out of the question by Ottawa.

Ontario has reciprocated the responsiveness of the federal government, not wanting to jeopardize friendly relations. The selective Ontario tax rebate on American automobiles which overlapped federal jurisdiction in international trade and presented difficulties for Canada's G.A.T.T. obligations was rapidly withdrawn under the federal government's gentle reprimand concerning ". . . mistaken action taken in good faith."<sup>30</sup> Premier Davis assured the federal government that he had no wish to embarrass it or engage in a judicial dispute.<sup>31</sup>

Ontario's economic interests resulting from the 1973 oil crisis explain the province's support and need for a strong federal stance in the price dispute. Thus Davis' report to the Pepin-Robarts task force called for a ". . . constitution which emphasizes federal responsibility for

economic policy and provincial jurisdiction over social affairs."<sup>32</sup> At the January, 1974, federal-provincial energy conference, Premier Davis ". . . emerged as a strong advocate of federal power, or at least fell far short of denying Ottawa the right to intervene in resource policy."<sup>33</sup> Premier Davis advocated a single domestic price, higher export taxes to underwrite the cost of oil in the east, and the distribution across Canada of the profits. At the 1975 federal-provincial energy conference, Premier Davis argued strongly with a series of economic reports against the raising of the Canadian oil price, stressing the inflationary impact and severe damage to be caused to the Ontario economy. He claimed that without federal leadership in the issue and the denial of a price increase, ". . . it is directly denying thousands of people in Ontario the right to employment." This was followed by the warning that "Damage to the economy of Ontario can create a ripple effect through the Canadian economy. . ."<sup>34</sup> Premier Davis claimed that a price increase would not serve the 'national interest,' as defined by Ontario. In this instance, the federal government could not serve only the interests of Ontario, and compromised on a smaller price increase than that demanded by Alberta.

While relations with the federal government are therefore more smooth than rocky, Ontario occupies an ambiguous position with regard to Quebec. Prior to Premier Davis' term in office, Premier John Robarts was widely known for his close association

with Quebec premiers. For his part, Premier Davis supported Premier Bourassa's rejection of the Victoria Charter, claiming that if Quebec were unwilling to sign, then Canada must be said to be unwilling, ". . . the governments of Quebec and Ontario may speak in two languages, but they speak with one voice."<sup>35</sup>

Both Premier Levesque and Premier Davis have something to gain in friendly relations. For his part, Premier Levesque wants to demonstrate his government's honourable intentions, he being ". . . under renewed pressure to show Wall Street how well he can get along with his fraternal enemies within Canada,"<sup>36</sup> and anxious to downplay the implications of sovereignty association. The cross-country travels of Quebec's Intergovernmental Affairs ministers serve the same purpose. And as Keith Spicer states, Premier Davis knows that ". . . Queen's Park cannot afford to let P.Q. sweet-talk about independence scare off New York investors from an Ontario seen as part of a 'doomed' country."<sup>37</sup> The 1978 Davis-Levesque 'summit' meeting would hopefully demonstrate, with ". . . a bit of back-slapping with Rene [that] Ontario will stay a good place to chase a buck [and] Ontario and Quebec will somehow muddle through as buddies."<sup>38</sup> Additionally however, Premier Davis is attempting to continue Ontario's tradition of championing national unity. The province of Ontario clearly has the greatest stake in Canada, and the most to lose with Premier Levesque's proposals. Premier Davis therefore emphasizes his

province's links with Quebec, as well as what Quebec has to gain by remaining in Canada. In his relations with Premier Levesque he is careful to point out that the friendliness does not extend to any form of approval of sovereignty-association. It cannot be ignored after all, that Ontario represents the overbearing English majority which is next door to the French minority attempting to forge a new political system model.

According to a 1977 poll conducted for Southam Press and the Toronto Star, Premier Davis has been successful in his efforts to champion national unity. Premier Davis actually came ahead of then Opposition leader Joe Clark in the national opinion survey listing prominent people standing up for federalism. Rated first in the poll at 57 percent was then Prime Minister Trudeau, followed by John Diefenbaker with 17 percent, Premier Davis with 13 percent and Mr. Clark with 12 percent. Among those who said that provincial premiers were standing up for national unity, Premier Davis was named by 52 percent, compared with Premier Lougheed's 11 percent.<sup>39</sup> Ontario with its premier clearly came across as the province loath to alter the status quo.

The strategy of the Ontario government to maintain friendly relations with Quebec is not matched in Ontario's relationship with Alberta. Alberta's lengthy list of economic grievances against the federal government arise from the latter's representation of Ontario's economic interests. The two provinces have diametrically opposing economic interests

with regard to tariffs, freight rates and oil prices. The Alberta bumper sticker, 'Let the Eastern bastards freeze in the dark', accurately reflects the deep resentment against the powerful central province. Alberta first gained bargaining leverage after the 1973 oil crisis, which it has pressed to its advantage as much as possible. Ontario's tactic has been to use its clout with the federal government and strongly support increased federal (as opposed to provincial) powers in the resource dispute. To the Albertans then, Ontario is identifiable and interchangeable with the federal Liberal government. This is a cause of complete distrust of the Liberals, and unswerving Conservative support in the federal election.

Alberta is clearly a province with a cause against the federal government, one easily understood and shared by Albertans. In the 1970's, intra-relations in this province have been entirely consensual with regard to Alberta's position in Confederation. Local issues are subordinated to this cause. In 1977, the Toronto Star wrote that in this long time one-party, one-man province:

. . . political opposition to Lougheed is almost non-existent. Those who carp are cast as unpatriotic because Lougheed both articulates and amplifies Alberta's sense of grievance with Canada. 40

Albertans have presented a united front to the rest of Canada, to the benefit of Premier Lougheed's Conservatives. The solidarity of Albertans vis-a-vis the rest of Canada

intensified following the 1973 oil crisis. Premier Lougheed's bargaining with the federal government allowed the Conservatives in the 1975 provincial election campaign to use the slogan, 'Vote for Alberta As Long and Quo state, the election was not a choice among parties, but rather ". . . a vote of confidence in the Lougheed leadership."<sup>41</sup>

The Alberta government's lack of effective input at the federal level and alienation from the federal government has focussed its citizens attention on the provincial level of government. Premier Lougheed stated in 1977, as to why he didn't enter federal politics:

If you go to the centre you have to compromise your position, as a spokesman for the West. I don't have to compromise anything to anybody in terms of Alberta. . . The West has to represent itself. Because of the nature of Confederation, the provincial governments have to do it. 42

In Tarlton's terms, Alberta is distinguishable from the Canadian mainstream not only in economic terms as a primary, resource-producing province seeking industrialization and diversification, but in terms of political culture. In common with the Prairies, Alberta has inherited a frontier ethic from its history. Unlike the rest of Canada, the Prairies saw:

the influx of an ethnically heterogeneous population settling on homesteads spread over thousands of square miles where services were expensive and attainable only through local initiative, a unique set of attitudes, beliefs, values and skills developed. 43

The oil dispute brought the federal and Alberta govern-

ments into a tough series of negotiations, which resembled more the bargaining among sovereign nations than a jurisdictional dispute between two levels of government. The dispute is particularly interesting in its demonstration of the growing vital importance of areas under provincial jurisdiction. In this instance, provincial control and ownership of resources involved one which was shifting the balance of power in the international arena.

Oil pricing policy being vital to Alberta's economic interests, this issue represents the one area in which Alberta's political culture deviates from its 'Canada first' stance. Following the 1973 Middle East war when oil became a powerful international resource, Alberta found itself in a strong position with 83 percent of Canada's gas and 85 percent of its oil.

The oil crisis demonstrated Alberta's muscle, for provincial authority clearly included the control and ownership of natural resources, and the right to levy royalties. The federal government had jurisdiction over only interprovincial trade and corporate income tax.

Premier Lougheed was in a majority position in Alberta, while Prime Minister Trudeau until July, 1974 was running a minority government. The perceived strength of Alberta allowed the province to sell oil directly to the Americans, as well as impose a higher Canadian price in two dramatic federal-provincial conferences in January and March of 1974. The Canadian



Annual Review pointed out that "Seldom in the history of federal-provincial conferences had there been such manoeuvring for position and negotiating as before the January First Ministers' Conference."<sup>44</sup>

A bitter and lengthy dispute over the distribution of oil revenues ensued, but the federal government consistently relented to Alberta's demand for ever-increasing prices.

The federal government continued to support and adhere to a policy of gradually increasing oil and gas prices. Relations in this area only became seriously strained with the federal government's announcement in 1978 of a 'temporary pause' in the price increases. Oil prices had been raised \$1.00 per barrel bi-yearly since July 1977, provided they remained below the United States average price. While the federal government claimed the last proviso was not being met, the Alberta government argued that it was being met. In fact the devaluation of the dollar and U. S. oil price increases did mean the U. S. price was higher. But the federal government was under increasing pressure from outside Alberta to resist the inflationary price hikes, and the energy department's argument that higher prices were required for exploration incentives was undercut by the National Energy Board report saying ". . . there is enough oil to supply present needs from Ontario west until 1995."<sup>45</sup>

A Maclean's article on the issue points to the lack of sympathy even in the national Conservative party for the

Alberta government's complaint at having already foregone \$14 billion because ". . . royalties keep Alberta taxes at the lowest level in Canada and have created a \$4 billion Heritage Fund."<sup>46</sup> Alberta's influence is limited in the oil issue simply because the province is considered in any case a write-off in an election. Nor do the conflictual relations with the federal government serve the province's international oil interests. They serve only to dramatize Alberta's position in Confederation and garner Premier Lougheed local support.

Although the Alberta government carried on the oil battle with the federal government without teamwork with Saskatchewan, the western provinces have formed a united front on the basis of economic grievances against central Canada. Such inter-provincial cooperation is ". . . a critical factor in the outcome of federal-provincial bargaining."<sup>47</sup> The Prairie Economic Council formed in 1965 became the Western Economic Council in 1973 to include British Columbia, and was later renamed the Western Premier's Conference. In response to the western alienation demonstrated in the 1972 election, the 1973 federal throne speech intimated high hopes for federal-provincial cooperation and called for a Western Economic Opportunities Conference. In preparation for the conference the four western provinces attempted to forge a united front, and prepared joint position papers on economic and industrial development opportunities, transportation, agriculture, and capital financing and regional financing institutions. Along

with demands for changes in discriminatory freight rates and transportation policy, as well as more aid for regional development, the provinces jointly demanded changes in Canada's tariffs, which gave 'unrecognized transfer payments' to the east. They called on Ottawa to ". . . press vigorously for selective revision and tariff reductions at the forthcoming G.A.T.T. negotiations.<sup>48</sup> The premiers saw the conference as an opportunity to negotiate specific policies, while Ottawa had initiated the conference simply to air grievances. This frustrated the premiers, who were able to obtain only promises that the federal government would consider their arguments.

There is little doubt that the Alberta government's position is strengthened vis-a-vis the federal government through such communication, and the province has continued to play a leading role in the Conference. The Report of the Western Premiers' Task Force on Constitutional Trends was the latest example of their efforts. The report, sent to Prime Minister Trudeau, contains an inventory of federal 'intrusions' into provincial jurisdiction, presumably considered intolerable by the west. With regard to non-renewable resources, the report referred to the federal 1974 tax measures making royalties non-deductable, which adversely affected a province's ability to tax its resources and diversify its economy. The report says that the provision represented a serious challenge to the fundamental rights of the provinces to control and benefit from the development of the resources they own. 49

Complaint was also made over oil prices being set below world market levels, preventing a province from receiving 'fair market value' for its resource. But the provinces' chief complaint over oil was the lack of provincial involvement in policy-making. For example, the Federal Emergency Supply Allocation Act does not provide, in case of an oil supply emergency, for provincial representation on the Technical Advisory Committee. This section concluded that the provinces as owners of resources should play an important role in federal policy-making. Importantly, the federal government's ultimate prerogative in this matter of crucial international economic importance to the provinces was not being challenged.

The report also refers to the inadequate consultation of the provinces in Canada's G.A.T.T. negotiations. The western provinces have jointly attempted many times to influence Ottawa's G.A.T.T. policy, having presented briefs concerning agricultural and industrial matters in December 1974 and December 1975, April 1977 and October 1977.<sup>50</sup> Although the governments of Alberta, Quebec and Ontario sent separate delegations to the Geneva talks, such direct provincial input was refused by the federal government for the sake of a united Canadian front. The success of each province in gaining industrial tariff concessions depends ". . . not only upon federal-provincial consultation, but also on the progress of the Geneva talks."<sup>51</sup>

Despite these factors inhibiting a provincial role, the

provinces continually press the federal government into creating mechanisms geared to provincial input. The Canadian Trade and Tariffs Committee led to the Deputy-Ministers Committee, but according to Winham the most effective arrangement was worked out in 1977 with the appointment of a Canadian Coordinator for Trade Negotiations (C.C.T.N.). The Coordinator was to liaise between the Canadian negotiators, the cabinet, federal departments and the provincial governments. The Coordinator was considered to be linked with the highest federal policy-makers, the ad hoc cabinet committee. The Coordinator also chaired the federal-provincial Deputy-Ministers Committee and shared the chair of the Interdepartmental Committee on Trade and Industrial Policy. The importance of the position combined with the access given ". . . provincial bureaucracies to penetrate an otherwise decentralized federal bureaucratic structure"<sup>52</sup> have provided the provinces with some influence. Winham states however that the provincial influence has been of a bureaucratic rather than political nature. While provincial input into the federal policy has reached high levels, this does not prevent Premier Lougheed from continuing to use the national tariff structure as part of his ammunition in the continuing economic war with Ottawa.

The Alberta government's conflictual relations with the federal government over international affairs issues are very nearly limited to the oil drama and provincial input into federal international economic policy-making. Unlike Quebec

the province does not seek political goals which are at odds with the sovereignty of the federal government. Therefore the federal government does not feel threatened by its international activities, and does not attempt to restrict them sharply. Thus, during Premier Lougheed's much-publicized 1975 European trip he arrived ". . . carefully stating that he was following up the prime minister's initiatives in seeking links with the European Economic Community."<sup>53</sup>

The federal government did not condemn the trip, although whether it would have remained as passive in the face of equivalent Québec government activity is questionable. Observers of Premier Lougheed's negotiations with the European states noted that if the Quebec government had done the same there would have been an uproar in English Canada. As Christina Newman stated, the trip was a clear:

affirmation of Alberta's intention to show itself to be not a subservient province, but an increasingly powerful element in the Canadian federation. . . whose energy resources are vital to Canada. . . 54

The European trip also served to illuminate the Alberta government's political perspective on issues not related to oil. While the trip had been planned intensively for months and was considered important to Alberta's trade interests, Premier Lougheed allowed Prime Minister Trudeau to interrupt the remainder of his stay for an emergency conference on the creation of the Anti-Inflation Board. Despite his aides' advice to pursue his trip and ignore the prime minister, Premier Lougheed chose instead to 'snub' the Queen who

he had planned to visit, and return to Canada. There was speculation in the news media that Premier Lougheed was planning to run for the Tory leadership, and in returning early to the prime minister's meeting he gave the image of putting Canada first.

However, when Alberta's oil resources are involved, as in 1974 and at the June 1979 international oil conference in Alberta, Premier Lougheed gave the impression that Alberta's interests were paramount. At the First International Conference on the Future of Heavy Crude and Tar Sands, co-sponsored by the United Nations Institute for Training and Research, no Canadian flag flew alongside those of Alberta and the invited nations that had heavy-crude oil resources, such as Venezuela, Qatar, Costa Rica and others. Nor did Premier Lougheed advertise the fact that the province was conferring with over 200 delegates from some thirty foreign states on the crucial question of the future of the production, refining and marketing of heavy crude oil and tar sands. Carol Seguin, Coordinator of Missions and Conferences for International Affairs within Alberta's Federal and Intergovernmental Affairs Department, said that the Canadian government was not a co-sponsor and therefore was not represented. "But the Federal Government fully supported the conference," says Seguin. "The fact that the U.N. sent the invitations de-politicized the conference. . . we always cooperate with the Federal Government on international conferences. We didn't pull a Quebec trick, and we don't consider

ourselves a blooming nation."<sup>55</sup>

It remains a question whether the Quebec government would find the federal government equally cooperative under similar circumstances. The conference represents a strong international initiative on the part of Alberta, with clear 'Alberta first' overtones, not negated with the prior notification of Ottawa.

The Alberta government conducts a surprisingly symbiotic relationship with the Quebec government, a common distrust of the federal government underlying the friendliness. The election of the Parti Québécois is not viewed as a national crisis, for Alberta perceives "The real 'enemy' . . . [to be] the federal 'central' government and particularly Prime Minister Pierre Trudeau's Liberal Party, which is widely considered as remote and unresponsive to western Canadian problems and needs."<sup>56</sup>

When Premier Lougheed talks of a 'new, looser form of federalism' that would not reduce the provinces to the rank of 'junior government,' and when one considers the existence of an active western separatist movement based in Calgary, the Alberta-Quebec empathy is easier understood. In September 1977 Premier Lougheed said "We in Alberta, like Quebec, want more control over our own destiny but the problem is compounded for Quebec because it is fighting to preserve its culture and language."<sup>57</sup> In April of the same year Premier Lougheed again drew the comparison:



Just as Albertans want more control over their destiny, primarily for economic reasons, Quebecers, I sense, want also more control. . . essentially for cultural and linguistic reasons. 58

While both provinces seek decentralization and less 'suffocation' by the federal government, Alberta rejects the notion of sovereignty association put forward by the Parti Québécois. Alberta would have little to gain economically under the system, and at official levels is committed to the concept of Confederation.

In the sharp political and cultural contrast of Quebec with the rest of Canada, this province stands out according to Tarlton's model as the one most likely to carry on antagonistic relations with the federal government. Quebec corresponds to Tarlton's description of ". . . regions of the country where federalism is most hotly questioned, its constitutional features most frequently argued, and the propensity for subverting the national interest the highest. . ." <sup>59</sup> The nationalist orientation of the Parti Québécois, elected in 1976, makes Quebec unique among provincial governments in its international aims, and in the federal government's reaction to them.

The federal government's concern over the Quebec 'threat' has meant a policy of containment of all forms of activity, including the independent visits abroad and relations common to all three provinces.

Intra-relations in Quebec in the Lesage period and Johnson years were of a consensual nature. The nature of Quebec society at this time can only be understood within the context

of the Quiet Revolution. Controversial moves by Quebec in the field of foreign relations began in the context of new social, political and economic priorities of the Quiet Revolution. The end of the Duplessis era and the election of Jean Lesage as premier in 1960 signalled the beginning of a series of reforms in education, the economy, social policy and elsewhere, all geared toward modernization. This opened the way for a new collective self-awareness, a new nationalism marked by a spirit of épanouissement, and consequently the will of the province to run its own affairs. The Lesage government succeeded "au moins en apparence, à fixer à la collectivité québécoise des objectifs d'Etat auxquels une majorité de la population s'était ralliée."<sup>60</sup> There was a new attitude towards the state, and this étatisme was focussed upon the government of Quebec. "Only this government, under the control of Francophones, could assume the new responsibilities that Quebec's social and economic development demanded."<sup>61</sup> With these developments in Quebec's intra-relations, the Quebec government's goals with the federal government became more aggressive. The Quebec government's initiatives in foreign affairs were directly related to the new positive conception of the role of the provincial government.

The death of Premier Johnson marked the end of consensual intra-relations in Quebec, along with the Quiet Revolution. The Levesque administration, as well as the governments of Bertrand and Bourassa has not been able to rally the majority

of the population to objectives which are increasingly debated. There is much debate and confusion over the basic political goals and future of the province. Change in the political system is a common aim but the nature of this change is a matter of dispute. The victory of the Parti Québécois was not a clear victory for separatism. Premier Bourassa lost the battle not on his anti-separatist stance, but on his socio-economic policies. The lack of consensus was reflected in the polls taken in Quebec in 1977 and 1978. Depending upon the phrasing of the question, lower and higher percentages of Québécois were willing to give Premier Levesque a mandate to negotiate. Favouring independence and sovereignty-association were 15 percent and 26 percent respectively, while 56 percent favoured a mandate to negotiate 'new constitutional arrangements.' Clearly, ". . . the farther from independence the option became, the greater public support it received."<sup>62</sup>

There is no doubt however, that the province seeks some measure of cultural/political sovereignty, and the competition between the province and the federal government includes matters of symbolic nationalist importance. The extremely sensitive negotiations leading to the Quebec government's role in the Agence de Coopération Culturelle et Technique, the dispute over the role of the Quebec government in the Belgium cultural accord, and the refusal of the federal government to allow a Quebec general delegation in Senegal, as well as the strong reaction to Quebec behaviour at international con-

ferences, all reflect the underlying contest for legitimacy and the federal determination to contain any hint of an independent Quebec role abroad. The symbolic statements and gestures made by Quebec in the international sphere provoke a greater federal reaction than from any other province because matters of high-level diplomacy are too closely related to sovereignty.

Changes in Quebec political culture since the mid-1960's have influenced the province's relations with the federal government on international affairs. During the premierships of Jean Lesage and Daniel Johnson, consensual relations within Quebec supported the province's strong demands on a weaker federal minority government. Richard Simeon points to the relationship between a successful effort in international bids and a strong political culture. Furthermore, the federal government's perception of its own weakness ". . . seems to be a major reason for the federal concessions on pensions, finances and other issues during the period."<sup>63</sup> These concessions stemmed directly from the federal Liberal perception of the threat posed to Confederation by the separatist movement and were made ". . . in order to maintain unity."<sup>64</sup> Very simply, the degree of support held by Premier Lesage was perceived by the federal government as strong, while the minority federal government was perceived as weak and with a weak Quebec presence. Thus Quebec's initiatives in international affairs came at a time when the federal government did

not dare to take strong steps to defend a jurisdiction not clearly defined.

Perceptions had changed considerably by the time of the second period of conflict over international conferences. Federal officials felt the best way to maintain support was not to concede to provincial demands. The 1968 federal election brought in a French Canadian prime minister with a majority government and a strong federalist platform. The accession to power of Premier Bertrand meant less provincial commitment to an independent foreign affairs role. Both Premier Bertrand and Premier Bourassa had to face Parti Québécois opposition, and both therefore had to be careful not to come across themselves as separatist. The Quebec government could not look 'nationalistic' in its foreign relations for fear of indirectly helping the Parti Québécois if it did so. Thus, from the 1960's, political culture changed within Quebec society.

Premier Bourassa was brought to power with among other things, a campaign for fédéralisme rentable, or profitable federalism, by nature less conflictual with the federal government. Sparring with the federal government in the international arena was to be replaced in 1970 with a pragmatic approach to federalism. He was ". . . not interested in harassing Ottawa on external affairs. . . [it] would be pursued in cooperation with the federal government."<sup>65</sup> Along with cultural sovereignty at home and the primacy of the French language, the emphasis was on technical, economic international relations, which are

less repugnant to the federal government. Rather than confrontation, the strategy was to be the infiltration of the crucial policy-making areas. Thus Arthur Tremblay, Bourassa's Deputy-Minister of Intergovernmental Relations played a role in the federal government, influencing its policy along lines favorable to Quebec. "'He was our school teacher,' said the civil servant in charge of intergovernmental relations in one Western province."<sup>66</sup> The removal from the overt political bargaining arena of international issues was evidenced in the bureaucratic nature of provincial input into federal G.A.T.T. policy. In terms of Quebec's 'gains' in the international arena, it is not clear that the strategy has been more successful than the confrontation approach. The Bourassa years showed little advance in Quebec's international role. Aside from immigration agreements allowing Quebec a measure of control, (one of which was signed by Premier Levesque in 1978)<sup>67</sup> few or no advances were made in the nature of Quebec's representation at international conferences, or status in international organizations.

The strategy of infiltration of the federal government was a direct outcome of the changes in Quebec's political culture. Relations between the federal government and the Quebec government ~~relaxed~~ during the Bertrand and Bourassa years because of this change within Quebec.

This national identity focussing on the Quebec provincial government has worried the federal government since the early 1960's, but the election of a separatist government in 1976 made

for the closest possible federal scrutiny of the province's international affairs. This however has little daunted the Levesque government in its efforts abroad, and a hint of the 1960's atmosphere was revived in 1977 when Péquiste Ministers Marcel Leger and Jacques-Yvan Morin insisted on speaking for Quebec at international conferences, and Mr. Morin refused to preside over the Canadian delegation. Prime Minister Trudeau responded with the threat of barring the Quebec government from future participation, and the classic caustic federal-provincial interchange was on. As a Le Devoir writer stated:

En dépit des protestations outrées du gouvernement Canadien, le Québec a bel et bien l'intention d'être de plus en plus présent et actif sur la scène internationale. 68

As yet another Québécois author expressed it, the Parti Québécois "envisage évidemment, tout en assumant les acquis du passé, d'ouvrir de nouvelles voies aux relations internationales du Québec."<sup>69</sup> Premier Levesque's strategy in the international arena has been geared to:

. . . imprint on its voters' minds the image of Quebec as already in a moral and protocol sense, an independent country. . . The nightly TV news flashing another trumpets and guardsmen spectacle 'abroad' is meant to condition Quebecers to seeing, as well as fantasizing, Québec as a sovereign state. 70

Premier Levesque hopes to "accentuer le caractère original des activités internationales du Québec,"<sup>71</sup> and as Keith Spicer points out, this translates into ". . . an obsession to show the flag, whether actual business gets transacted or not."<sup>72</sup>

The truth of this was demonstrated during Premier

Levesque's visit to France in 1977, when he received the highest honours and warmest welcome possible for a foreign visitor. He was decorated with the Legion of Honor, and invited to speak to the French National Assembly while the session was suspended. One could only interpret that "... it was not only the man who was honored, but the man's message, a message of separatism that was given honor and the amplification of so unique a rostrum."<sup>73</sup> There was little of substance to show for the visit. There were no agreements, simply a generally worded communique calling for greater cooperation and a commitment to meet yearly.

The high-level treatment of Premier Levesque in France spurred the federal government to action. An embassy spokesman claimed that it was against the law for a Canadian citizen to accept a foreign medal without government approval, and Prime Minister Trudeau later dismissed the decoration as unimportant. Canadian Ambassador to France, Gérard Pelletier asked France on behalf of Canada for clarification and assurances concerning French policy towards Quebec, for details of the proposed yearly meetings, and for an explanation of France's support of Quebec 'along whatever road it decides to follow.' Premier Raymond Barre informed Canada that it had no right to interfere with France's treatment of visitors, and he reiterated President Giscard d'Estaing's promise of support for Quebec's actions.

Such an international interchange would have been unimaginable in the context of Premier Lougheed's 1975 visit.



This was partly because his visit was planned with the federal Department of External Affairs and the Canadian embassies of the countries he visited, and the ". . . high degree of cooperation"<sup>74</sup> between the two governments. Although Premier Lougheed's statements during his visit with regard to the federal Foreign Investment Review Agency ". . . would chill any nationalist's heart,"<sup>75</sup> there were no symbolic displays of Alberta as a government, and the federal government remained unperturbed.

What the Calgary Herald dubbed the "diplomatic two-step" is unique to the federal government-Quebec government relationship, because the province's political culture distinction from Canadian life carries the most serious implications in terms of the province's international role. The fact that Premier Lougheed carried his province's economic objectives into the international arena brought up no questions of sovereignty or nationhood. On the other hand, the dispute over the visit of E.E.C. representative Roy Jenkins in 1978 revolved around whether or not his trip would include a visit to Quebec to meet Premier Levesque.<sup>77</sup> The federal government had invited Premier Levesque to Ottawa to meet Mr. Jenkins the same day as Premier Davis had been invited. Meanwhile Premier Levesque had invited Mr. Jenkins to his province. Without the symbolic emphasis of the province, the locale of the meeting would hardly have been raised as an issue.

In relations with the Francophonie, since the late 1960's

the federal government has attempted to forge a stronger link between itself and French nations than the link between those French nations and Quebec. Beginning with the Chevrier mission the federal government has pursued a policy of aid to developing Francophone nations in an attempt to influence their treatment of Quebec. The severing of relations with Gabon was designed to demonstrate the consequences of too friendly a relationship with the province. The intense negotiations which resulted in Quebec's role in the Agence de Coopération Culturelle et Technique as a 'participating government' initiated a unique set of circumstances surrounding the organization. The use of the organization by the Quebec government to advance its claims of political sovereignty is countered by the federal government's financial support of the agency as well as many of its members. The conflict over the nature of a summit meeting of Francophone states in 1977 demonstrated the difficulties. While the federal government insisted that summit meetings could include only heads of sovereign states, the governments of France and Quebec claimed that without Quebec's presence there would be no summit. The Globe & Mail wrote:

[Quebec's] . . . concerted drive in Africa for support is posing a difficult dilemma for many countries that have appreciated the dramatic increase in Canadian federal aid. . . 78

France however, has not been under this restraint to ". . . not publicly encourage self-determination in Quebec."<sup>79</sup> French Minister M. Ligot attacked the federal government on its

summit stand, announcing France's recognition of ". . . competence in Francophone cultural affairs to Quebec alone,"<sup>80</sup> an extremely provocative statement to the federal government.

The French connection then, can be pinpointed as the single most influential external force on Quebec's or any other province's international capacity. The Ottawa-Paris-Quebec triangle, "toujours sans modèle et sans réplique,"<sup>81</sup> has been a source of the Quebec government's strength in dealing with the federal government, and a cause of tension between the federal government and France. While France's concern with Canadian affairs may have altered considerably since the days of President de Gaulle under the influence of changing international circumstances,<sup>82</sup> its perpetual red-carpet treatment of Quebec's leaders is interpreted on the Canadian-Quebec side as a continuation of the interventionist policy.

With France's encouragement and support for an international role for Quebec, the Quebec government has gained leverage through the triangle. The federal government, despite its efforts to reduce Quebec's role ". . . au niveau de celui des autres provinces," and to eliminate Quebec's ". . . poids politique spécifique à l'intérieur du triangle,"<sup>83</sup> is forced to recognize Quebec's special ties to France. As Painchaud states, even if Quebec remains within Confederation, one of the terms would surely be the recognition of the special diplomatic status of Quebec vis-a-vis France. France's

role in Quebec's political evolution has been the diplomatic 'recognition' of Quebec's international identity. In this way France has contributed ". . . à la formation et à la consolidation de l'Etat du Québec."<sup>84</sup> As André Patry phrases it, the Quebec-France relationship has afforded Quebec, through the French high-level treatment of the province, a 'window to the world.'<sup>85</sup> Federal efforts have been towards closing it.

Jacques Brossard, in his book on Quebec's possible accession to sovereignty, even speculates as to what would happen if France or several African states recognized Quebec as independent. International law on such questions is highly complex and subject to dispute. Brossard emphasizes that should Quebec choose sovereignty, the task will be easier with foreign recognition and Canada's consent, but its success ". . . ne dépendra pas des reconnaissances qui lui seront accordées."<sup>86</sup> Such speculation by Brossard reaffirms the premise that Quebec's international relationships play a special role. The provinces of Alberta and Ontario are never seen in this light in their international dealings.

Yet, for the purpose of the separatist goals of the Parti Québécois, France's role is limited to 'diplomatic courtesies.' In terms of real-politik, and the balance of international power, Denys Laliberté points to the necessity of U.S. support. France may have influence in Africa but ". . . son action en Amérique du Nord reste fort négligeable et nettement incomparable avec celle des Etats-Unis et de

l'Europe."<sup>87</sup> Any action taken by the Quebec government towards independence depends on international support, the international arena playing a forceful role in the determination of a sovereign state. The United States furthermore, if only because of the uncertainty a break-up of Canada would cause, would be loath to support Quebec independence. The insecurity arising from the creation of a sovereign state would hardly be welcomed by the super-power next door.<sup>88</sup>

Despite the seemingly favourable role played by France in Quebec's international efforts, the French influence is not entirely welcome in the province. Quebec nationalism and pride make for a resentment of France's "'impérialisme culturel.'"<sup>89</sup> Thus the overly warm relations at the official government level are not paralleled in Quebec society. The resentment is perhaps analogous to the nationalist English-Canadian's feelings about the daily invasion of America media and culture. In its striving for political sovereignty, whether this means a break with Canada, Quebec would not have France playing a vital role.

Political culture differences within Canada have greatly influenced the nature, extent and acceptability of provincial international roles. The motivation for such international activity is clearly ". . . rooted to a considerable degree in certain economic and socio-cultural cleavages in Canadian society."<sup>90</sup> These cleavages determine the nature of each province's relations with the federal government, and the

latter's response to various provincial initiatives. According to Tarlton's framework, and depending on the subject area, various provinces may be considered asymmetrical, the resulting federal-provincial conflicts extending to the international roles of the provinces. The federal government has not responded, on the international scene, to the various needs and demands of Canada's regions, whereas an effective federal system ". . . should provide the means whereby a province or region whose interests are blatantly flouted can have effective political and constitutional recourse."<sup>91</sup> In the absence of such recourse at the federal level, provinces tend to take matters into their own hands.

- <sup>1</sup>Painchaud, Etudes Internationales, p. 30.
- <sup>2</sup>Smiley, p. 10.
- <sup>3</sup>The Globe and Mail (Toronto), 31 March 1978.
- <sup>4</sup>E. R. Black and A. C. Cairns, "A Different Perspective on Canadian Federalism," in P. Meekison, 3d ed., p. 43.
- <sup>5</sup>R. Simeon, "Regionalism and Canadian Political Institutions," in P. Meekison, 3d ed., p. 295.
- <sup>6</sup>R. Van Loon and M. S. Whittington, The Canadian Political System: Environment, Structure, and Process, 2d ed. (Toronto: McGraw-Hill Ryerson, 1976), p. 64.
- <sup>7</sup>D. V. Smiley, Canada in Question: Federalism in the '70's (Toronto: McGraw-Hill Ryerson Ltd., 1976), p. 165.
- <sup>8</sup>Morin, Etudes Internationales, p. 286.
- <sup>9</sup>Painchaud, Etudes Internationales, p. 29.
- <sup>10</sup>Vaugeois, p. 387.
- <sup>11</sup>N. Penner, "Ontario: The Dominant Province," in M. Robin, ed. Canadian Provincial Politics: The Party Systems of the Ten Provinces, (Scarborough: Prentice Hall of Canada, Ltd., 1978), p. 205.
- <sup>12</sup>Ibid., p. 210.
- <sup>13</sup>F. J. Fletcher, "The View from Upper Canada," in R. Simeon, ed. Must Canada Fail? (Montreal: McGill-Queen's U. Press, 1977), p. 94.
- <sup>14</sup>J. Archer, "The Prairie Perspective in 1977," in Simeon, ed., p. 76.
- <sup>15</sup>M. Westmacott and P. Dore, "Intergovernmental Cooperation in Western Canada: The Western Economic Opportunities Conference," in Meekison, ed., 3d ed., p. 342.
- <sup>16</sup>J. A. Long and F. Q. Quo, "Alberta: Politics of Consensus," in Robin, ed., p. 22.
- <sup>17</sup>The Star (Montreal), 9 February 1977.
- <sup>18</sup>Leeson and Vanderelst, p. 11.
- <sup>19</sup>C. Morin, Le Combat Québécois (Montréal: Les Editions du Boréal Express, 1973), p. 72.
- <sup>20</sup>Fox, p. 10.
- <sup>21</sup>The Globe and Mail (Toronto), 7 February 1979.
- <sup>22</sup>Ibid.
- <sup>23</sup>The Sun (Vancouver), 19 March 1977.
- <sup>24</sup>Ibid., p. 867.
- <sup>25</sup>Ibid., p. 868.

- <sup>26</sup> Ibid., p. 871.
- <sup>27</sup> Ibid.
- <sup>28</sup> Fletcher, p. 94.
- <sup>29</sup> J. Martin, The Role and Place of Ontario in the Canadian Confederation (Toronto: Ontario Economic Council, 1974), p. 2.
- <sup>30</sup> The Globe and Mail (Toronto), 8 August 1975.
- <sup>31</sup> The Canadian Institute of International Affairs, 5, July/August, 1975, p. 209.
- <sup>32</sup> Institute of Intergovernmental Relations, Federal Year in Review, 2 Vols. (Kingston: Queen's University, 1978), 1:6.
- <sup>33</sup> J. Saywell, ed., Canadian Annual Review of 1974 (Toronto: University of Toronto Press, 1975), p. 93.
- <sup>34</sup> The Honourable W. G. Davis, "Statement to the Federal-Provincial Conference of First Ministers," April 9-10, List of Documents Ottawa, 1975, p. 9.
- <sup>35</sup> Saywell, ed., Canadian Annual Review of 1971 (Toronto: U. of Toronto Press, 1972), p. 106.
- <sup>36</sup> The Sun (Vancouver), 30 May 1978.
- <sup>37</sup> Ibid.
- <sup>38</sup> Ibid.
- <sup>39</sup> The Globe and Mail (Toronto), 6 October 1977.
- <sup>40</sup> The Star (Toronto), 10 February 1977.
- <sup>41</sup> Long and Quo, p. 1.
- <sup>42</sup> The Star (Montreal), 9 February 1977.
- <sup>43</sup> D. E. Smith, "Western Politics and National Unity," in D. J. Bercuson, ed. Canada and the Burden of Unity (Toronto: The Macmillan Co. of Canada, Ltd., 1977), p. 151.
- <sup>44</sup> Saywell, Canadian Annual Review of 1974, pp. 91-92.
- <sup>45</sup> Maclean's, 23 October 1978, p. 43.
- <sup>46</sup> Ibid., p. 44.
- <sup>47</sup> Institute of Intergovernmental Relations, D. Brown, Federal Year in Review, 2 Vols. (Kingston: Queen's U., 1979), 2:64.
- <sup>48</sup> Canadian Institute of International Affairs, July/August, 1973.
- <sup>49</sup> Task Force of Ministers, Report of the Western Premiers' Task Force on Constitutional Trends (Victoria: Queen's Printer, 1977), p. 26.



- <sup>50</sup>Institute of Intergovernmental Relations 1, p. 39.
- <sup>51</sup>Ibid., 2, p. 23.
- <sup>52</sup>G. Winham, "Bureaucratic Politics and Canadian Trade Negotiations," International Journal 34 (Winter, 1978-1979), p. 81.
- <sup>53</sup>The Globe and Mail (Toronto), 6 October 1975.
- <sup>54</sup>Ibid.
- <sup>55</sup>Interview, Carol Seguin, Coordinator of Missions and Conferences for International Affairs, Federal and Intergovernmental Affairs, Government of Alberta, October, 1979.
- <sup>56</sup>The Star (Montreal), 12 February 1977.
- <sup>57</sup>The Star (Montreal), 29 September 1977.
- <sup>58</sup>The Globe and Mail (Toronto), 14 April 1977.
- <sup>59</sup>Tarlton, p. 873.
- <sup>60</sup>J. Benjamin, Planification et Politique au Québec (Montréal: Les Presses Universitaires de Montréal, 1974), p. 112.
- <sup>61</sup>D. Posgate and K. McRoberts, Quebec: Social Change and Political Crisis (Toronto: McClelland & Stewart Ltd., 1976), p. 99.
- <sup>62</sup>Institute of Intergovernmental Relations 2, p. 54.
- <sup>63</sup>Simeon, Federal-Provincial Diplomacy, p. 211.
- <sup>64</sup>Ibid., p. 171.
- <sup>65</sup>Levy, Ph.D. Dissertation, p. 351.
- <sup>66</sup>The Globe and Mail (Toronto), 7 February 1979.
- <sup>67</sup>The Globe and Mail (Toronto), 8 August 1978.
- <sup>68</sup>Le Devoir, 1 April 1977.
- <sup>69</sup>L. Beaudoin, "Origines et Développement du Rôle International du Gouvernement du Québec," in Painchaud, ed., p. 470.
- <sup>70</sup>The Sun (Vancouver), 30 May 1978.
- <sup>71</sup>Le Devoir, 29 April 1977.
- <sup>72</sup>The Sun (Vancouver), 30 May 1978.
- <sup>73</sup>The Globe and Mail (Toronto), 7 November 1977.
- <sup>74</sup>Meekison, International Perspectives, p. 9.
- <sup>75</sup>The Globe and Mail (Toronto), 1 October 1975.
- <sup>76</sup>The Herald (Calgary), 11 January 1978.
- <sup>77</sup>The Globe and Mail (Toronto), 7 March 1978.

- <sup>78</sup>The Globe and Mail (Toronto), 24 December 1977.
- <sup>79</sup>Ibid.
- <sup>80</sup>The Province (Vancouver), 16 December 1977.
- <sup>81</sup>Le Devoir, 12 February 1978.
- <sup>82</sup>Le Devoir, 28 February 1979.
- <sup>83</sup>Le Devoir, 1 March 1979. \*
- <sup>84</sup>Ibid.
- <sup>85</sup>Le Devoir, 12 February 1978.
- <sup>86</sup>Jacques Brossard, L'Accession à la Souveraineté et le Cas du Québec: Conditions et Modalités Politico-juridique (Montréal: Les Presses de l'Université de Montréal, 1976), p. 411.
- <sup>87</sup>Le Devoir, 11 January 1979.
- <sup>88</sup>Ibid.
- <sup>89</sup>P. Savard, "Les Canadiens Français et la France de la 'Cession' à la 'révolution tranquille,'" in Painchaud, ed., p. 471.
- <sup>90</sup>Levy, Ph.D. Dissertation, p. 469.
- <sup>91</sup>T. D. Regehr, "Western Canada and the Burden of National Transportation Policies," in Bercuson, ed., p. 121.

## Chapter V

## CONCLUSION

The international roles of the three provinces demonstrate, perhaps more than other issues, the regionalism and conflicting interests within the Canadian federation. The international activities of Alberta, Ontario and Quebec are wide-ranging, and clearly essential to provincial economic and cultural development. Yet both legal and cultural constraints inhibit some provincial international behaviour. Federal-provincial disputes in particular affect the ability of each province to pursue its international interests. As long as both levels of government remain responsible for their citizens' general cultural and economic well-being, such conflicts are inevitable.

The legal framework for a provincial role in foreign affairs, while not definitive, does provide parameters for provincial behaviour. The potential exists in international law for a limited international status for the provinces, not presently enjoyed by them. Canadian constitutional law being inconclusive on the matter, agreement for such status would have to be reached between the federal government and the provinces. The law does provide for activity at unofficial levels, and for official diplomatic activity with federal

approval.

In international law, the federal division of sovereignty between two levels of government is accorded no special consideration. Sovereignty is the very foundation of classical international law, and represents the line between a federation and a confederation of independent states. The regionalism which makes a federal structure necessary causes complications for the international affairs of the federal or central government. Some means must be found for regional expression on the international stage without compromising the unity of the state.

The growing overlap of provincial jurisdiction in issues of international interest created the dilemma for federalism. The autonomy of the regional government within its jurisdiction may be jeopardized by exclusive federal power in international affairs. Federal theorists all point to the necessity of some regional autonomy. Yet one of the essential features of a federal state, defined at a time before foreign affairs involved a wide range of issues, is the official exclusive control of foreign affairs by the central government. Nevertheless, federal theory does not preclude some measure of international authority for individual members of a federation:

International law, inconclusive on the subject of a limited international status for member states, is equally unsettled with regard to member state treaty-making capacity. The International Law Commission draft articles of 1968 and 1969, allowing treaty-making capacity if provided for within a

state's constitution, was not passed, due to the concerns of federal states, Canada in particular.

There are few relevant examples of federal states with member state involvement in international affairs for comparison with Canada. Approximately half the world's federations are completely centralized in their foreign affairs powers. The United States allows some international competence, but not status, for its states under federal supervision. Only four federations provide for some official international status for their member states, and two of these are centralized in practice. The international trend has been toward the centralization of the international prerogative in federations. Only Switzerland and West Germany provide for limited international status for their member states. Furthermore, only three federations, Canada, Nigeria, and West Germany, protect their regional governments' autonomy with a division between treaty-making and treaty-implementation. In each case the federal government may not implement a treaty it has concluded if it is within member state jurisdiction. Despite controversy in Canada over the apparent restriction in federal power, A. E. Gotlieb claims that there is no evidence to support this. Those nations without restrictions on treaty implementation do not appear to have a better record of treaty ratification. It appears that official jurisdiction plays a smaller role in such cases than the regional political forces within each federation.

Canadian constitutional law is clear on few matters of international affairs power, with legal debate continuing over several essential issues. Canada, recognized internationally as a sovereign state, has all the powers of a full international person. The 1937 Lord Atkin decision established the division between treaty-making and treaty-implementation. But the question of the legal exclusivity of the federal government's powers is yet unresolved. The complex legal debate, with references to several court decisions, was essentially played out between the Quebec and the federal governments in the 1960's. Where there is no clear constitutional argument against a limited international personality, and such a debate exists, it remains the duty of foreign states to respect only the authority of the central government.

The challenge to exclusive federal authority came in the 1960's from the province of Quebec. In 1965 two ententes signed by the governments of Quebec and France concerning education were hastily followed by an exchange of notes between Canada and France, at the federal government's insistence, to give them international legal effect. While the Quebec government argued that it had the right to conclude ententes, or understandings, with foreign states on the basis of provincial authority over education, the federal government refused to recognize the distinction between an entente and a treaty. The Quebec government continued to take initiatives, with the federal government responding to each by ratifying agreements

after the fact. The umbrella agreement between France and Canada represented an effort by the federal government to ratify such agreements in advance, and was ignored by the Quebec government.

The ententes themselves did not appear to raise international legal questions, since they were not intended to function as treaties, but there was conflict over the federal government's insistence on monitoring the Quebec government's actions. This was demonstrated in a controversy over the province's attendance at international conferences. The Quebec government contended that it had the right to do so independent of the federal government.

The federal government's continued determination to maintain its official prerogative in international affairs leaves foreign states no choice but to respect its wishes, or risk being accused of interference in Canada's domestic affairs. The international activity of the provinces is therefore legally unofficial, unless the federal government lends its sanction. Thus the legal parameters favor federal authority, but are not strongly inhibitive of unofficial provincial international relations.


There is no comprehensive typology for the range of provincial international activities. Morris' framework is set unrealistically within the context of complete federal control. That of Painchaud is more useful in its elaboration of the connection between a province's foreign role and its

internal politics. Johannson's economic typology is also useful, focusing on provincial efforts to promote trade and exports through subsidies, tax rebates, and production quotas, as well as their influence on international trade through liquor control boards, financial activities, and foreign aid.

The centralizing trend of many of the world's federations is not exhibited in Canada, due to such factors as court decisions favorable to the provinces, the structure of the Canadian political system limiting the power of the Supreme Court, and the regionalized nature of Canadian political parties.

The focus of economic expectations on not only the federal but the provincial governments has led to the provincial efforts in the international economic arena. In this context, all three provinces have undertaken similar activities such as premiers' visits abroad, and economic and trade missions. Their success at promoting provincial economic growth in this way depends largely on the responsiveness of the foreign states.

The thwarting of the federal government in the foreign policy field, usually perceived in connection with the province of Quebec, is no less common in the cases of the provinces of Ontario and Alberta. For example, the latter two provinces have made strenuous efforts in international dealings to downplay, if not circumvent, the goals of the federal government's Foreign Investment Review Commission. And the Ontario





government's 1975 tax rebate for North American built cars protected Ontario's automotive industry at the expense of Canada's G.A.T.T. obligations. All three provinces pursue their most vital interests on the international scene without first considering the federal government's concerns as taking priority.

While seeking a voice in world events is not characteristic of the provinces, the Quebec government has sought a role in the European Economic Community, and is in the process of formulating a position on many international issues. The Ontario government took a stand against the Arab boycott, this being of interest to Israel more for its possible influence on the federal government than for any impact on world events.

The activities of the provinces vary with their economic and cultural interests. Their economic roles have been seen to be comparable, but there are special types of activities that cannot be categorized. The Quebec government, for example, under an agreement with the federal government, maintains immigration officers in Canadian embassies. The 'Information Flow' program, arranged for the provinces of Ontario and Alberta after their attempts to open Washington offices, was obviously geared to the specific needs of these two provinces. Such assurances may be meaningless, however, in such cases as the Quebec government's participation in the 'Agence de Coopération Culturelle et Technique, which effectively precludes an equal role for other provinces.

All three provinces attempt to influence the federal government's foreign policy-making. Alberta's efforts have been directed chiefly towards Canada's role in the G.A.T.T. negotiations. Ontario's main concerns have been with regard to the Canada-U.S. Auto Pact, and all three provinces participate in Canada's C.I.D.A. activities.

As Johansson's framework indicates, the administrative international relations of the provinces, in comparison with their economic and cultural efforts, involve a low level of authority, and a minimum of federal involvement. Their administrative relations usually involve the American states and Commonwealth nations in matters within their jurisdiction such as natural resources or environmental protection. Usually their contacts are through professional organizations or participation in inter-state American compacts. The understandings reached are rarely concluded in a formal manner. Ontario undertakes more of such activities than the other provinces, and this province's research and involvement in intergovernmental conferences with the U.S. was actually an aid to the federal government in its conclusion of the 1972 Great Lakes Water Quality Agreement.

The growing importance of the provincial international roles is reflected in the increased attention paid them by top levels of government, and the institutionalization of their activities. All three provinces have ministries entirely or partially concerned with their international relations.

The type of international role pursued by each province is determined not only by its regional economic interests, but by its perceptions of its role in terms of political culture. The political culture differentiation is most accentuated in the case of the province of Quebec, the homeland of the French Canadian minority. The nationalism of Quebec leads to a greater stress than other provinces on the symbolic and independent nature of its foreign role. Alberta and Ontario are basically concerned only that their economic interests are met, whether through the federal government or themselves. Ontario has been seen to identify most strongly with the federal government, and Alberta to share with Quebec a distrust of the federal government for its economic favoritism to Ontario.

All three provinces view their international affairs role as any other federal-provincial issue, while the federal government has consistently linked such roles with sovereign status. The federal government is limited in its ability to supervise all international dealings, but maintains a close watch on any activity of a more official or diplomatic level. Whether a provincial initiative will bring a reaction from the federal government depends largely on the diplomatic importance of the event in the eyes of the federal government, and its relations in general with the province. Its concern over the goals of the Quebec government has resulted in far more disputes over that province's activities. In addition, Quebec,

unlike the other provinces, does not view federalism as placing it in a subservient position to the federal government. All three provinces are not convinced that the federal government represents the national interest. They tend to believe that Canadian federalism must allow for the diverging interests and values of the provinces to be reflected on the international scene.

Political culture differences within Canada have influenced greatly the nature, extent and acceptability of provincial international roles. Tarlton's model of symmetry focuses on the different ways in which members of the federal system relate to each other. Depending on the subject matter, various provinces may be considered asymmetrical, with the resulting federal-provincial conflict extending to international roles. Quebec in these terms is isolated from the cultural mainstream, while Alberta is set apart in economic terms. In these areas, conflictual intergovernmental relations are to be expected.

According to Tarlton's model, Ontario's international relations would cause the least conflict with the federal government. Its dependence on the federal government to protect its economic interests, particularly following the 1973 oil crisis, explains the emphasis in this province on federal responsibility.

Pressures on the federal government to allow for provincial input into its international policy-making led to

the creation of the Canadian Trade and Tariffs Committee, the Deputy-Ministers' Committee, and the appointment of a Canadian Coordinator for Trade Negotiations. These changes represent the most successful efforts of the provinces acting as pressure groups within the federation.

When Alberta oil resources are involved, as in 1973, and at a 1979 international oil conference in Alberta at which the federal government was not represented, the impression is given that the interests of the province of Alberta are paramount. On issues not related to oil, this perspective changes. Premier Lougheed chose to forego his visit with the Queen and return to Canada early for a federal-provincial conference on the creation of the Anti-Inflation Board, giving in this case, the impression of putting Canada first.

Quebec's clear cultural and political differentiation from the rest of Canada means according to Tarlton's model, that the province is most likely to carry on conflictual relations with the federal government. The federal government, antagonized by a hint of official diplomacy being carried on without explicit recognition of its sole official prerogative, is most attentive to the Quebec government's activities. For this reason, the provinces of Alberta and Ontario may be able to expand their roles without significant federal pressure, while the Quebec government's role is constantly scrutinized. The Belgium accord represented an attempt by the federal government to minimize the Quebec government's international

ties. The attempt was made unsuccessful in this case by the Quebec government's refusal to sign the agreement. The federal government's refusal to allow Quebec to open a fifth general delegation in Dakar, Senegal, can be seen in the same light. As well, the federal government has heightened its presence in Africa to prevent the Quebec government from strengthening its ties with Francophone African states.

The changes within Quebec political culture from the 1960's to the 1970's resulted in fewer conflictual inter-governmental relations. The growth of the Parti Québécois had forced a more moderate stance on the part of the Quebec premiers, who attempted to 'infiltrate,' rather than confront, the federal government. With the election of the Parti Québécois in 1976, the strategy reverted to symbolic nationalist demands. The gestures made by Quebec at international conferences in 1977, for example, provoked a greater response from the federal government than the activities of any other province. In another case, Premier Levesque's 1977 visit to France was followed by diplomatic protests from the federal government. In terms of external influence on provincial roles, France's relationship with Quebec is seen as most influential. Its potential role in case of an attempt by the Quebec government to separate from Canada is also great. None of the contacts of the governments of Alberta or Ontario could be considered in a similar light.

The nature of the rapport between levels of government

thus plays a great role in the acceptability of provincial activities. In terms of political culture, the actions of the Quebec government are not acceptable, while the low-level diplomacy of the other provinces affords them a long international leash. The federal government feels that the Quebec government cannot be trusted. The distinctive, national characteristics of Quebec society make any diplomatic dealings of the province dangerous and intolerable to the Ottawa government.

There is a limited theoretical basis on which to evaluate comprehensively the international activities of Canadian provinces. The relatively recent surge of provincial interest in international activity has posed problems and questions over the nature of their roles which have not yet been answered. The Canadian federal system has not been able to respond with clear formulas for provincial activities. Rather, the provinces have tended to pursue their interests, and the federal government has attempted in some cases to contain them. In these instances, federal-provincial relations and negotiations become paramount, and complex solutions are found in the form of detailed arrangements for a province's activity.

The provinces may thus be seen to conduct international relations both as a pressure group in areas under federal jurisdiction, and as governments with foreign policy in the full sense of the word in Painchaud's terms, in areas under their jurisdiction. The pursuit of their international

objectives is contained only by the degree of receptiveness of the foreign state, and by the federal government's monitoring of their activities. In the case of Quebec, the federal government has been seen to go beyond such monitoring in an attempt to minimize the province's ties with Francophone states.

The international affairs of the government of Quebec have been seen as distinct from the other provinces. The province of Quebec seeks broader international goals, yet one could not say that its international activity represents a higher level than that of Alberta or Ontario. The special role of Quebec in A.C.C.T. is as unique an arrangement as that worked out for Alberta and Ontario in the 'Information Flow' program. Only the province of Quebec's general delegations are not matched by the efforts of other provinces' offices abroad. Yet many observers feel that Premier Loughheed's 1975 European trip and the 1979 oil conference in Alberta would have elicited a strong federal reaction if the initiatives had come from Quebec.

Given the similar range of economic and administrative international affairs of the three provinces, one is forced to conclude that there is little distinction between the levels of their international affairs. The differences are in the nature of the tasks pursued, the province of Quebec being more interested in cultural activities, and the provinces of Alberta and Ontario more interested in economic issues.



The two methodologies, one focusing on political culture, the other on institutional factors, were used under the assumption that the ability of each province, and within Quebec the French minority, to pursue its international interests depends on both the operation of the federal principle as defined by Wheare and on political values and attitudes. Provincial foreign relations represent an area in Canadian federalism which is ill-defined and largely unstructured. The haphazard manner by which acceptable and unacceptable provincial foreign activities are measured and controlled by the federal government does not enhance federalism as a working arrangement.

The conflict over the distribution of powers in foreign relations was brought into focus with the use of Wheare's institutional framework. But the greatest constraint on provincial international roles is related to the political culture framework provided by Livingston and Tarlton. Yet a measure for comparing the activities of different provinces is left lacking in both frameworks, and represents the theoretical limit to the study of provincial foreign relations.

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