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Federalism, Continentalism and Economic Development in Canada

Canada is a huge country of diverse regions, sparsely populated but richly endowed with natural resources. Of its ten provinces all except Nova Scotia and the two islands, Newfoundland and Prince Edward Island, possess lengthy borders with the United States of America. Living next to the world's largest and most dynamic industrial economy has had a significant impact not only upon the nation's economic development but upon its federal system. By the Canadian constitution the provinces control "all lands, mines, minerals and royalties belonging to the several Provinces [...] at the Union", along with "the management and sale of the Public Lands belonging to the province[s] and of the timber and wood thereon" [1]. This jurisdiction gives the provinces very extensive powers to manage the development of their natural resources, resources for which a ready market has developed in the United States since the turn of the century.

The British North America Act also gives the federal parliament authority over "the regulation of Trade and Commerce", which naturally includes exports and imports. But in their interpretation of the constitutional division of powers Canadian courts have not followed those in the United States where the "commerce" clause has been construed to permit federal regulation of all manner of things. As early as 1881 the Judicial Committee of the Privy Council held that "authority to legislate for the regulation of trade and commerce does not comprehend the power to regulate by legislation the contracts of a particular business or trade, such as the business of fire insurance in a single province [...]" [2]. In addition, the courts have defined provincial jurisdiction over "property and civil rights in the Province" and "gene-

[1] The British North America Act, 1867, 30 - 31 Victoria, c. 3, s. 109, s. 92 (5), a British statute.

[2] Ibidem, s. 91 (2). The British Judicial Committee of the Privy Council remained Canada's highest court of appeal until 1949; the decision in *Citizens Insurance Co. v. Parsons* (1881) is reported in 7 A.C. 96.

rally all matters of a merely local or private nature in the province" [3] quite broadly and refused to sanction federal acts which seemed to trench upon these. The provinces thus possess very large powers to manage their own economic development based upon their proprietary rights to the lands, forests and mineral resources lying within their boundaries. Not surprisingly such provincial activities have, on occasion, run counter to federal policy and the result has been serious intergovernmental conflict.

The development of a growing market for Canadian resources in the United States after 1900 proved to be a mixed blessing. While some Canadians were quite content to sell lumber, pulpwood and ores to the Americans, others fretted about their nation's future as a supplier of raw materials to a more advanced industrial economy, about being forever mere "hewers of wood and drawers of water" for their neighbours to the south. Was it not possible, they asked, to devise policies to require or encourage the further processing or fabrication of resources within Canada to create more jobs and greater income [4]? As early as 1897 the provincial government of Ontario, using its proprietary control over the Crown lands, introduced a "manufacturing condition" which placed an embargo upon the exportation from Canada of unsawn pine logs cut under provincial timber licences. American licencees protested bitterly to Washington, London and Ottawa at this interference with their livelihood, and Prime Minister Sir Wilfrid Laurier sought to have the embargo lifted in the interests of better Canadian-American relations. But the provincial government refused to budge, and the courts subsequently upheld the constitutionality of the manufacturing condition as a valid exercise of the province's regulatory power over its property. In fact, the government of Ontario later attempted to extend the same kind of condition to pulpwood and nickel ore [5].

In time, moreover, the Ontario authorities came to recognize that a central feature of any such policy to encourage regional economic development must include control of energy supplies. As one Canadian economist pointed out in 1929,

> the development of industry is more and more resolving itself into a question of power, improving transportation facilities having made the assembling of raw materials for manufacturing progressively easier. Under modern condi-

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[3] B.N.A. Act, s. 92 (13, 16).

[4] See H.G.J. Aitken, *American Capital and Canadian Resources* (Cambridge, Mass., 1961), chs. II, III.

[5] For an excellent account of the manufacturing condition see H. V. Nelles, *The Politics of Development, Forests, Mines and Hydro-Electric Power in Ontario, 1849 - 1941* (Toronto, 1974), ch. 2; *Smylie v. R.* (1900), 27 O.A.R. 172.

> tions the general tendency of manufacturing is seek the power and assemble its raw materials where the latter is most abundant [6].

Since Ontario lacked coal it depended heavily upon imported American anthracite during the nineteenth century. Thus the development or hydroelectric technology which would permit the exploitation of the vast potential of Niagara Falls and other rivers attracted keen interest in the province and led to the creation of the publicly-owned Ontario Hydro-Electric Power Commission in 1906. The H.E.P.C.'s task was to ensure the availability of low-cost electricity for industrial development. Much of its authority depended upon the province's ownership of the beneficial use of the flowing waters in its rivers and streams. In opposing one plan to develop the International Section of the lower St. Lawrence a representative of the province declared in 1910, "What we say, speaking on behalf of the Government, is that any power developed from the water of the River St. Lawrence belongs, as to the proprietary rights, to the Province of Ontario [. . .]" [7].

The export of hydroelectricity to the United States became a matter of particular concern to the provincial authorities. As with other resources there existed a demand for cheap power south of the border. In fact, the earliest development on the Canadian side of Niagara Falls had been undertaken by American interests intending to sell current in New York state. Long-term export contracts were quickly recognized, however, as doubly dangerous: not only did they reduce the amount of low-cost energy available in Ontario but they reinforced the industrial superiority enjoyed by the Americans. Yet by the time the H.E.P.C. came into existence in 1906 private power producers at Niagara Falls had already committed themselves to large sales in the lucrative New York market. Although the federal parliament passed legislation in 1907 requiring electricity exporters to obtain annual licenses nothing was done to restrict the level of exports.

During the First World War a severe power shortage developed as munitions-makers on both sides of the border expanded production. The result was serious friction between the province of Ontario and the federal government. Sir Adam Beck, the longtime chairman of the H.E.P.C., was determined to use the opportunity to restrict exports.

[6] Public Archives of Canada, W. L. Mackenzie King Papers, pp. C44543 - 50, Memorandum from R.H. Coats re „Probable Line of Future Canadian Progress--Industry and the Tariff-Immigration", n.d. [1929].

[7] On the creation of the H.E.P.C. see H. V. Nelles, *The Politics of Development*, o.c., chs. 6, 7; Public Archives of Canada, Sir Wilfrid Laurier Papers, pp. 166394 - 628, Transcript of Hearings of International Waterways Commission on the Application of the Long Sault Development Company to Dam the St. Lawrence, February 9 - 10, 1910; Irwin Hilliard's statement is at p. 108 of the transcript.

On several occasions war plants in New York state suddenly found their power cut off and immediately protested to the governments of both Canada and the United States that they could not fill their orders. The federal Prime Minister, Sir Robert Borden, attempted to intercede but found Beck and Ontario Premier Sir William Hearst unwilling to bow to his wishes. Although Ottawa eventually appointed a Power Controller to rank consumers according to priority, he could not compell the H.E.P.C., a provincial agency, to obey his directives. In January, 1918 the United States government even threatened to cut off vital coal exports to Canada because the H.E.P.C. had failed to deliver power to key carbide and explosives makers. Yet so long as Beck retained the support of the provincial cabinet for restricting exports there was relatively little the federal authorities could do [8].

During the 1920's demand for electricity in central Canada continued to rise rapidly, and the H.E.P.C. found itself hard-pressed to increase generating capacity fast enough. The lower St. Lawrence remained one obvious source of new power, but the federal government claimed jurisdiction over it on grounds that it was navigable and formed part of the international boundary. The Ontario government feared that Ottawa would use its authority to control development and to authorize power exports to the United States if the Canadian market was not large enough to absorb this huge block of new energy all at once. Sir Adam Beck was reported to have told a banquet audience, "That river shall not, if there be a revolution to prevent it, fall into the hands of the Dominion government" [9]. The province insisted that it had the right to develop the power provided that navigation was not interfered with.

In 1929 a series of hypothetical questions was referred to the Supreme Court of Canada for an advisory opinion on the division of jurisdiction, but the judges' answers proved so guarded as to be practically useless [10]. Lengthy negotiations between Prime Minister Mackenzie King and Ontario Premier Howard Ferguson failed to settle the issue, and it was not until a new administration took office after the 1930 election that Ottawa displayed a more accomodating attitude. Prime Minister R. B. Bennett was eager to negotiate a treaty with the United States to construct a St. Lawrence Deep Waterway to admit ocean-going ships to the Great Lakes. The Bennett government was prepared to concede the provincial claim to the waterpower on the river. In 1932 an agreement was signed whereby Ontario would own the electricity if it built

[8] See Ch. Armstrong, *The Politics of Federalism: Ontario's Relations with the Federal Government, 1867 - 1941* (forthcoming, 1981), ch. IV.

[9] Beck is quoted in Public Archives of Canada, Sir Robert Borden Papers, pp. 64531 - 7, George E. Yates to Borden, April 19, 1920, Confidential.

[10] *Reference re Waters and Water Powers* (1929), S.C.R. 200.

the powerhouses and met 70 per cent of the cost of the works required for both navigation and power purposes. The United States Senate, however, rejected the treaty in 1934, and the Canada-Ontario agreement was allowed to lapse.

During the late 1930's hopes for a St. Lawrence Seaway gradually revived as the Roosevelt administration swung behind the idea. Now it was Ontario's turn to block an agreement. Premier Mitchell Hepburn was convinced that the Seaway would prove to be a costly white elephant and that additional energy could be secured much more cheaply by increasing the amount of water diverted for power purposes at Niagara Falls. When the federal government failed to persuade the United States to agree to this alone, Hepburn charged that Canadian policy was being "made in Washington". The ownership of the power to be developed on the St. Lawrence was no longer an issue, but the Ontario Premier succeeded in holding up the entire project for years. Only when the outbreak of war made another power shortage likely did he drop his opposition, and a new agreement between the province and the federal government was signed in the spring of 1941. Ontario undertook to pay 62.5 per cent of the cost of joint power-navigation works and to assume ownership of the powerhouses when the curent began to flow. Once again, however, the United States Congress delayed then turned down the Seaway agreement with Canada early in 1948.

From the Second World War onward both provincial and federal governments supported an early start on St. Lawrence development. Despite an increase of 30 per cent in provincial generating capacity from 1946 to 1950 Ontario's rapid growth left her starved for power and even necessitated rotating blackouts during the winter of 1947 - 8. Stymied by Congress' refusal to act Premier George Drew and Governor Thomas Dewey of New York devised a "Power Priority Plan" by which construction of powerplants on the St. Lawrence would proceed immediately without the canal project. Unfortunately the Truman administration proved unreceptive to this idea, although it did agree to a separate Niagara Diversion Treaty in 1950 which permitted a large increase in the amount of water available for power at the Falls. Not until 1954 did the new Eisenhower administration consent to support the Seaway and persuaded Congress to approve it. By 1959 a vast dam had been completed at Barnhart Island on the International Section of the St. Lawrence to meet the ever-growing power needs of New York and Ontario [11].

This half-century of debate over St. Lawrence development demon-

[11] See Ch. Armstrong, *Politics of Federalism*, chs. VIII, IX and William R. Willoughby, *The St. Lawrence Waterway, A Study in Politics and Diplomacy* (Madison, Wis., 1961), chs. XIV - XVII.

strated both the extent and the limitations of provincial authority. Relying upon its proprietary rights Ontario was successful in claiming ownership of the power created by the canal scheme. Moreover, the province was able to block a treaty with the United States in the late 1930's by refusing to participate. But during the 1940's despite an acute power shortage, the province was forced to leave the search for an international agreement in Ottawa's hands when Washington refused to approve the Power Priority Plan. Only after the two nations came to terms acceptable to the United States Congress could construction begin.

In the late 1950's and early 1960's a dispute arose between the federal government and the province of British Columbia which bore striking similarities to the lengthy wrangle over the St. Lawrence. Once more there was a collision between provincial development policies and the plans of the central government for an international river, in this case the Columbia [12]. And again the province was able to block development and insist upon modifications in the treaty arrangements with the United States.

The Columbia River rises in the Canadian Rockies and flows hundreds of miles northwest before turning south to cross the border and discharge into the Pacific. Much of the river's power potential in the United States was developed during the 1930's with the construction of such vast projects as the Grand Coulee dam, but the long loop through Canadian territory remained untouched. Engineering studies begun in 1944 revealed that a series of dams on the Columbia and its major Canadian tributary, the Kootenay, could not only generate a great deal of power in Canada but provide valuable water storage which would greatly increase the capacity of the plants downstream in the United States. The question was to what extent Canada would be entitled to share in these "downstream benefits". In 1954 the Kaiser Aluminum Corporation offered to pay the entire cost of a dam near Castlegar, B.C., and to return to the province 20 per cent of the power which the additional storage would generate south of the border. The British Columbia government favoured this idea, but the federal authorities strongly opposed this "give-away" of valuable resources. In 1955 parliament was asked to approve an International Rivers Improvement Act which required a federal license to construct and operate any works which would alter the flow of a river crossing the international boundary. This interference by Ottawa was bitterly resented by Premier W. A. C. Bennett who thereupon resolved that British Columbia would

[12] A very full account is provided by Neil A. Swainson, *Conflict over the Columbia, The Canadian Background to an Historic Treaty* (Montreal, 1979) on which much of what follows is based.

use its proprietary rights to veto any future plans for Columbia development of which he did not approve [13].

In 1956 the government of Louis St. Laurent opened discussions with the United States regarding a comprehensive Columbia treaty, and these talks continued after John Diefenbaker became Prime Minister in 1957. The aim of the federal negotiators was to secure for Canada one-half of the downstream benefits, payable in the form of hydroelectricity to be delivered at the border. The federal ministers believed that such a large block of low-cost power would permit the rapid development of British Columbia. When Prime Minister Diefenbaker referred to the possibility of "joint development" of the Columbia by the federal and provincial governments, however, Premier Bennett was quick to respond that he saw no need of participation by Ottawa. Indeed, he was already exploring other sources of cheap power for his province, having just signed an agreement with the Swedish industrialist, Axel Wenner-Gren, to plan a vast dam on the headwaters of the Peace River with an ultimate power potential of 4,000,000 horsepower. The Peace, a tributary of the Mackenzie which flows into the Arctic Ocean, would be harnessed in the northeastern section of the province, far from existing centres of population. Not only did the Premier desire the development of that area, but the Wenner-Gren interests claimed that power from the Peace could also be marketed in the lower mainland around Vancouver more cheaply than that from dams on the Columbia within Canada. In announcing the Peace project Bennett declared, "Surely now both Ottawa and the U.S. will realize that we mean business. This means the development of B.C. won't be held back while the U.S. and Ottawa hold pink teas" [14].

Critics of Bennett's "two-river" policy of developing the Peace and the Columbia simultaneously insisted that it would simply leave the province with a huge block of surplus power. Asked what he intended to do with all this energy the Premier curtly replied, "Create jobs" [15]. Still, it was widely believed that the only way to dispose of the electricity would be to sign long-term export contracts with the United States. This would run counter to the traditional Canadian policy on power exports, established as a result of protests by Ontario after the First World War and repeatedly endorsed by parlament that such

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[13] Bennet always insisted that having the American company pay the entire cost of the dam and returning 20 per cent of the downstream benefit power was more valuable than having Canada build the dam itself and getting half the benefit.

[14] Quoted in N. Swainson, *Conflict over Columbia*, o.c. p. 84; a highly critical assessment of the Peace River development may be found in M. Robin, *Pillars of Profit, the Company Province 1934 - 1972* (Toronto, 1973), chs. VII, VIII.

[15] Quoted in N. Swainson, *Conflict over Columbia*, o.c., p. 118.

contracts would mortgage Canada's industrial future. Despite these fears the federal negotiators, headed by Justice Minister Davie Fulton, himself a British Columbian, pressed ahead with talks with the Americans regarding a Columbia treaty, apparently oblivious to Bennett's oft-proclaimed determination to proceed with the Peace as well. No agreement was reached between the provincial and federal governments about how any such treaty would be implemented, and in December, 1960 Bennett complained, "The federal government proposes, through the creation of a new separate agency, to carry out the development of a natural resource which belongs to the people of British Columbia" [16]. Nonetheless, Prime Minister Diefenbaker went ahead and signed a treaty with the United States in January, 1961 agreeing to create 15.5 million acre-feet of water storage on the Columbia in Canada and to accept 763,000 kilowatt years of electricity as Canada's share of the downstream benefits [17].

If any demonstration were required of the extent of provincial control over resource development the stalemate which arose over the Columbia during the next three years provided it. Premier Bennett had now become convinced that the downstream benefit power to which British Columbia was entitled should be sold in the United States under long-term contracts and the proceeds used to pay the cost of the storage works. Once these export contracts expired the province would be left with 2,000,000 horsepower of free or "no-mill" power, and, meanwhile, generating equipment could be installed at the dams in Canada as demand warranted. To strengthen its hand the provincial government nationalized the province's largest private utility, the B.C. Electric Company, in the summer of 1961 and empowered it to take over development of the Peace River [18]. A new B.C. Hydro and Power Authority was created to manage provincial energy policy, and in the spring of 1963 tenders were called for the Peace River dam. Development of the Columbia remained in limbo.

Davie Fulton continued to criticize Bennett's policies severely. He charged that granting long-term export contracts to the Americans would be "an act of such reckless and improvident philanthropy that it would make this country the laughingstock of the whole world",

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[16] Quoted in ibidem, p. 175.

[17] Canada, Departments of External Affairs and Northern Affairs and Natural Resources, *The Columbia River Treaty, Protocol and Related Documents* (Ottawa, 1964).

[18] Premier Bennett claimed to have taken this action because privately owned utilities were subject to federal taxation while provincial property is constitutionally exempt; nationalization also helped him tighten his grip on power planning and development. The 1961 legislation was subsequently held to be ultra vires of the province, but a settlement was negotiated between the B. C. Electric and the provincial government.

and that for the United States it would be "the greatest windfall since the purchase of Manhattan island" [19]. In the spring of 1963, however, the Diefenbaker government was defeated in a general election, and the new administration headed by Lester Pearson proved more accomodating towards British Columbia. An agreement between the two governments was signed in June confirming all the province's proprietary rights and approving the sale of the downstream benefits. During the provincial election in the fall of 1963 the Premier contended that he now had achieved what he had been seeking all along: "We will develop the Columbia on the sound basis of making the Americans pay for it" [20].

A Protocol to the 1961 Columbia River Treaty was signed with the United States in January, 1964 under which the B.C. Hydro and Power Authority would construct the High Arrow, Mica and Duncan dams using the $254,000,000 which the Americans would pay over on October 1, 1964 in exchange for all the downstream power benefits over a period of thirty years from the completion of the dams. Generating equipment could later be installed on the Columbia system in Canada which was ultimately expected to produce an additional 5,300,000 horsepower [21].

Davie Fulton's criticism of this "sell-out" of Canadian energy resources was echoed in many quarters. Right or not, the fact remains that it was Premier Bennett's insistence upon the simultaneous development of the Peace and the Columbia which forced the modification of the original treaty by the Protocol. British Columbia's proprietary rights to its waterpowers. even those on international streams which had earlier been successfully defended by the government of Ontario, bent Ottawa to his will. The federal government might require the province to secure a license to dam the Columbia under the 1955 International Rivers Improvement Act, but Bennett could veto any development which did not suit him. He preferred to develop the Peace as well in the hope of promoting growth in the northeastern section of his province and selling the downstream benefit power to the Americans. The only means which Ottawa could have used to try and win him over was a large loan or an outright grant of money but, the Diefenbaker administration never offered enough to change Bennett's mind, if indeed that was ever possible. The result of the Columbia River Treaty and Protocol was certainly to tighten the bonds of economic integration between British Columbia and the Pacific Northwest of the United States, and such north-south links provided a significant centripetal force within the Canadian federal union.

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[19] Quoted in P. C. Newman, *Renegade in Power: The Diefenbaker Years* (Toronto, 1963), p. 103.

[20] Quoted in N. Swainson, *Conflict over Columbia*, o.c., p. 260.

[21] *The Columbia River Treaty, Protocol and Related Documents.*

Conflict over energy policy and industrial development have also affected the relations between Ottawa and the province of Alberta. Before 1930 that province, like Manitoba and Saskatchewan, did not own its unalienated natural resources which were retained in federal hands, but in that year an amendment to the constitution placed all the provinces on an identical footing [22]. The discovery of large reserves of oil and natural gas in Alberta, particularly since the Second World War, has created intergovernmental friction which parallels that involving Ontario and British Columbia over electrical energy [23]. Albertans have come to regard their petroleum resources, especially natural gas, as an endowment of unique importance which could permit the transformation of a hinterland region, previously heavily dependent upon agricultural exports, into a mature and diversified industrial economy. Federal policies which seem to stand in the way of this have been objected to strenuously.

As the demand for Alberta's oil and gas in American and eastern Canadian markets mounted steadily, fears increased that the province's citizens might one day find the wells empty with but little left to show for it. As early as 1949 the president of the university of Alberta wrote, "I have always felt that this resource represented for Alberta what hydro-electric power represented to the St. Lawrence valley. On this view it would seem unwise to sacrifice for immediate gain our longe--range potentialities for development" [24]. By that date a half dozen entrepreneurs were already lobbying the provincial government for permission to export natural gas. Premier Ernest Manning's government first requested Ottawa to include in federal pipeline legislation a provision banning any exports without the approval of the producing province, but this was refused, according to the Premier, "90 per cent for political reasons" [25]. Fearful that federally incorporated pipeline companies cont-

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[22] The federal government retained ownership of the lands and natural resources in the three provinces in order to promote the development of western Canada until the agreements were reached on the transfer in 1930. See Gerald V. La Forest, *Natural Resources and Public Property under the Canadian Constitution* (Toronto, 1969), pp. 35 - 45.

[23] Much of what follows is based upon the excellent book by J. Richards and L. Pratt, *Prairie Capitalism: Power and Influence in the New West* (Toronto, 1979), chs. 3, 9.

[24] Quoted in ibidem, p. 63; the Edmonton *Journal* (July 7, 1949) made the parallel with the Ontario case even more explicit: "Once the export of gas ... is allowed to a foreign country, a 'vested interest' is inevitably built up over the years. Ontario found this out long ago and again during recent years. That province consented as a war measure to export hydro power to the United States industries near the Niagara River. But when water levels fell and Ontario had to cut its industrial and domestic consumption of power, it discovered that it dare not reduce its exports to U.S. industrial plants."; quoted in ibidem, p. 63.

[25] Quoted in ibidem, p. 65.

rolled by American interests might deal directly with major gas producers thus nullifying provincial regulation, Manning rushed through legislation in 1949 giving Alberta's Oil and Gas Conservation Board authority to issue export permits. Only after studies had concluded that Alberta's gas reserves totalled 6.8 trillion cubic feet, well in excess of the province's anticipated requirements during the next thirty years, did the Board authorize Westcoast Transmission to move gas through British Columbia to the American Pacific Northwest in 1952.

The federal government also gave strong backing to an application from Trans-Canada Pipelines to bring western natural gas to Ontario and the American Midwest [26]. Fearful of the market power which a single large purchaser with Ottawa's support would have to set prices, Manning attempted to strengthen the province's hand in 1954 by setting up Alberta Gas Trunklines, an integrated gas gathering system which bought from producers throughout the province and sold to the pipelines at the provincial boundary. Having approved Trans-Canada's exort application in 1954 the Premier defended his decision by arguing that Alberta's future prospects depended not simply upon retaining its gas but upon the petrochemicals which could be extracted from the gas before it left the province. Not to approve some exports, said Manning, would result in "restricting an important phase of industrial growth" [27].

Over the next two decades an extensive network of both oil and gas pipelines was laid down tying the Alberta fields to the North American market. By 1974 the province was exporting over 4500 million cubic feet of natural gas per day and almost 1.4 million barrels of oil to the rest of Canada and the United States [28]. In the fall of 1973 the Organization of Petroleum Exporting Countries announced a dramatic rise in the cost of oil. The federal government promptly imposed a freeze on domestic prices and levied an oil export tax to capture some of the increased revenues accruing to producers. The government of Alberta, where almost 90 per cent of Canadian oil is produced, responded quickly in an effort to reassert its control over the pricing and marketing of petroleum products. Since 80 per cent of the recoverable oil and gas in Alberta lies under Crown lands which are licensed for exploration and development, the province's proprietary rights formed the basis of its claim to jurisdiction. Referring to the precedent set by the Ontario government's 1897 manufacturing condition on sawlogs, Attor-

[26] See W. Kilbourn, *Pipeline, Transcanada and the Great Debate, A History of Business and Politics* (Toronto, 1970), passim.

[27] Quoted in L. Pratt, "The State and Province-Building: Alberta's Development Strategy," in L. Panitch, ed., *The Canadian State: Political Economy and Political Power* (Toronto, 1977), l.c. 141.

[28] Ed. Gould, *The History of Canada's Oil and Gas Industry* (n.p., 1976), pp. 170 - 1.

ney General Mervin Leitch pointed out that a provincial government "has vastly greater control over the natural resources that it owns than it does over the natural resources that it doesn't own":

> A province can, with respect to natural resources it owns: (a) decide whether to develop them, (b) decide by whom, when and how they're going to be developed, (c) determine the degree of processing that's to take place within the province, (d) dispose of them upon conditions that they only be used in a certain way, or in a certain place, or by certain people, (e) determine the price at which they or the produce resulting from their processing will be sold [29].

Late in 1973 Alberta's Petroleum Marketing Commission was given wide authority to control the pricing and marketing of production from Crown leases, even for oil to be sold outside the province. The Mines and Minerals Act was also rewritten to ensure provincial control of the oil after it left the wellhead by requiring all producers to sell through the Commission and making the one-third share of all oil collected as royalties the outright property of the province.

This challenge to the national oil policies did not go unmet by the federal government. A sweeping Petroleum Marketing Act was passed by parliament in the spring of 1974 which gave Ottawa the power to fix domestic oil prices. In the federal budget corporate income taxes were revised so that oil producers could no longer deduct provincial royalties when calculating taxable income [30]. Albertans were outraged by what was viewed as a not-too-thinly-disguised attempt to undermine provincial jurisdiction and gain control over petroleum resources. The local business community strongly endorsed provincial resistance to federal interference, supporting "a positive, strong state at the provincial level as a buffer against a predatory national government" [31].

Natural gas pricing has also created conflict between Alberta and the federal government. In 1972 the province's Energy Resources Conservation Board concluded that under long-term contracts signed during the 1950's and 1960's gas producers were receiving significantly lower returns than those earned for other fuels supplying equivalent amounts of energy. Even when natural gas shortages occurred in the United States, driving up prices, exports required the approval of the federally-

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[29] M. Leitch, "The Constitutional Position of Natural Resources", in J. P. Meekison, ed., *Canadian Federalism: Myth or Reality*, 3rd ed. (Toronto, 1977), pp. 170 - 8.

[30] Two federal budgets were brought down in 1974 because parliament was dissolved, but after the re-election of the Trudeau administration the budget provision on royalties was passed.

[31] L. Pratt, "State and Province-Building", o.c., p. 150.

-appointed National Energy Board. Although some new exports were approved in 1970 two further applications were turned down by the Board the following year. Alberta gas producers, faced with one very large buyer in Trans-Canada Pipelines found their bergaining position weak when seeking to renegotiate prices. The provincial government, therefore, arranged for the creation of Pan-Alberta Gas to buy up all production not already contracted for in order to strengthen its hand [32]. The Energy Conservation Board also ruled that gas prices could be reopened every two years on the basis of energy equivalence with other fuels. Naturally these efforts were strongly resisted by politicians from Ontario, a major gas consumer. Many Albertans considered efforts to block rises in the prices of both oil and natural gas to reflect the unwillingness of the federal government to concede to their province the same rights to control its natural resource development which had been accorded to British Columbia and Ontario in the case of electrical energy.

Friction between Alberta and Ottawa over petroleum pricing during the 1970's has reinforced the determination of the provincial government to put in place a new development strategy based upon its oil and gas [33]. Premier Peter Lougheed is determined to see a world-scale petrochemical complex built in the province to manufacture ethylene from ethane stripped from natural gas and to turn this into such important by-products as vinyl chloride. But this ambition runs directly counter to the federal government's plan to have its Crown corporation, Petrosar, build its own world-scale ethylene plant using Alberta crude oil at Sarnia, Ontario, the traditional centre of Canada's petrochemical industry. Petrosar would produce enough to supply most of the Canadian market, while the output of the Alberta complex would be excluded from American markets by United States tariffs. The provincial government might try to arrange to release more natural gas for export in exchange for revisions in the tariff, but Ottawa is responsible for tariff negotiations and any new export sales require the approval of the National Energy Board. What, therefore, will be the outcome of this conflict is as yet unclear. The fact remains that the province of Alberta directly controls 80 per cent of its oil and gas reserves through its proprietary rights and 30 per cent of current production is paid over to it as royalties, so that it cannot easily be made to bow to the will of the central government while oil and natural gas are in short supply.

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[32] Pan-Alberta Gas was actually created by Alberta Gas Trunklines on whose board sit two directors appointed by the government.

[33] See D. V. Smiley, "The Political Context of Resource Development in Canada," in Anthony Scott, ed., *Natural Resource Revenues: A Test of Federalism* (Vancouver, 1976), pp. 61 - 73.

Canada's federal system has its own special characteristics which derive not simply from the divison of jurisdiction between the provinces and the central government but also from Canada's place within the North American continental economy. Provincial governments can control the exploitation of their lands, forests and mineral resources through their proprietary rights, which includes taking decisions regarding the release of products for sale in the United States market. North-south trading relations form an important counter-balance to efforts by the central government to structure a highly centralized national economy. So do provincial efforts to promote regional development which may conflict with the scale of priorities desired by Ottawa. As a result federal-provincial conflicts not infrequently occur, and only through negotiation can the two jurisdictions arrive at some accomodation.

The Canadian experience, as Edwin Black and Alan Cairns have pointed out, "gives little credence to the belief that federalism is a transitional state on the road to a unitary state" [34]. The progressive weakening of regional identifications under the integrating influence of industrial development and large-scale enterprise has not occurred to the extent that some had predicted [35]. The powers possessed by the provincial governments under the Canadian constitution and the complex web of economic relations which binds each of Canada's regions to the neighbouring United States are likely to remain as important as the nation's ethnic and cultural diversity in ensuring that the federal system continues to be a decentralized one.

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[34] E. Black, and A. Cairns, "A Different Perspective on Canadian Federalism," *Canadian Public Administration*, 9 (1966), p. 30.

[35] See, for instance, K. Deutsch *et al.*, *Political Community and the North Atlantic Area*, chs. 2, 3.