NOTICE

The quality of this microform is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Reproduction in full or in part of this microform is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30, and subsequent amendments.

AVIS

La qualité de cette microforme dépend grandement de la qualité de la thèse soumise au microfilage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

La reproduction, même partielle, de cette microforme est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30, et ses amendements subséquents.
FEDERAL-PROVINCIAL RELATIONS IN IMMIGRATION 1971-1991:
A CASE STUDY OF ASYMMETRICAL FEDERALISM

by

JOSEPH GARCEA

Dissertation submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy in the Department of Political Science Carleton University 1993
THE AUTHOR HAS GRANTED AN
IRREVOCABLE NON-EXCLUSIVE
LICENSE ALLOWING THE NATIONAL
LIBRARY OF CANADA TO
REPRODUCE, LOAN, DISTRIBUTION OR
SELL COPIES OF HIS/HER THESIS BY
ANY MEANS AND IN ANY FORM OR
FORMAT, MAKING THIS THESIS
AVAILABLE TO INTERESTED
PERSONS.

L'AUTEUR A ACCORDE UNE LICENCE
IRREVOCABLE ET NON EXCLUSIVE
PERMETTANT À LA BIBLIOTHÈQUE
NATIONALE DU CANADA DE
REPRODUIRE, PRETER, DISTRIBUER
OU VENDRE DES COPIES DE SA
THÈSE DE QUELQUE MANIERE ET
Sous QUELQUE FORME QUE CE SOIT
POUR METTRE DES EXEMPLAIRES DE
CETTE THÈSE À LA DISPOSITION DES
PERSONNE INTERESSÉES.

THE AUTHOR RETAINS OWNERSHIP
OF THE COPYRIGHT IN HIS/HER
THESIS. NEITHER THE THESIS NOR
SUBSTANTIAL EXTRACTS FROM IT
MAY BE PRINTED OR OTHERWISE
REPRODUCED WITHOUT HIS/HER
PERMISSION.

L'AUTEUR CONserve LA PROPRIETE
DU DROIT D'AUTEUR QUI PROTEGE
SA THÈSE. NI LA THÈSE NI DES
EXTRAITS SUBSTANtiELS DE CELLE-
CI NE DOIVENT ETRE IMPRIMES OU
AUTREMENT REPRODUITS SANS SON
AUTORISATION.

THE HUMANITIES AND SOCIAL SCIENCES

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communications and the Arts</td>
<td>0529</td>
</tr>
<tr>
<td>Art History</td>
<td>0377</td>
</tr>
<tr>
<td>Cinema</td>
<td>0290</td>
</tr>
<tr>
<td>Dance</td>
<td>0278</td>
</tr>
<tr>
<td>Fine Arts</td>
<td>0377</td>
</tr>
<tr>
<td>Information Science</td>
<td>0273</td>
</tr>
<tr>
<td>Journalism</td>
<td>0391</td>
</tr>
<tr>
<td>Library Science</td>
<td>0399</td>
</tr>
<tr>
<td>Mass Communications</td>
<td>0708</td>
</tr>
<tr>
<td>Music</td>
<td>0413</td>
</tr>
<tr>
<td>Speech Communication</td>
<td>0459</td>
</tr>
<tr>
<td>Theater</td>
<td>0465</td>
</tr>
</tbody>
</table>

EDUCATION

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>0515</td>
</tr>
<tr>
<td>Administration</td>
<td>0514</td>
</tr>
<tr>
<td>Adult and Continuing</td>
<td>0516</td>
</tr>
<tr>
<td>Agricultural</td>
<td>0517</td>
</tr>
<tr>
<td>Art</td>
<td>0273</td>
</tr>
<tr>
<td>Bilingual and Multicultural</td>
<td>0282</td>
</tr>
<tr>
<td>Business</td>
<td>0488</td>
</tr>
<tr>
<td>Community College</td>
<td>0275</td>
</tr>
<tr>
<td>Curriculum and Instruction</td>
<td>0518</td>
</tr>
<tr>
<td>Early Childhood</td>
<td>0524</td>
</tr>
<tr>
<td>Elementary</td>
<td>0277</td>
</tr>
<tr>
<td>Guidance and Counseling</td>
<td>0519</td>
</tr>
<tr>
<td>Health</td>
<td>0680</td>
</tr>
<tr>
<td>Higher</td>
<td>0445</td>
</tr>
<tr>
<td>History of</td>
<td>0520</td>
</tr>
<tr>
<td>Home Economics</td>
<td>0278</td>
</tr>
<tr>
<td>International</td>
<td>0521</td>
</tr>
<tr>
<td>Language and Literature</td>
<td>0379</td>
</tr>
<tr>
<td>Mathematics</td>
<td>0280</td>
</tr>
<tr>
<td>Music</td>
<td>0522</td>
</tr>
<tr>
<td>Philosophy of</td>
<td>0978</td>
</tr>
<tr>
<td>Physical</td>
<td>0523</td>
</tr>
</tbody>
</table>

PHILOSOPHY, RELIGION AND THEOLOGY

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychology</td>
<td>0525</td>
</tr>
<tr>
<td>Religious Science</td>
<td>0355</td>
</tr>
<tr>
<td>Sciences</td>
<td>0714</td>
</tr>
<tr>
<td>Social Sciences</td>
<td>0333</td>
</tr>
<tr>
<td>Sociology of Religion</td>
<td>0334</td>
</tr>
<tr>
<td>Sociology of Social Sciences</td>
<td>0340</td>
</tr>
<tr>
<td>Teacher Training</td>
<td>0329</td>
</tr>
<tr>
<td>Technology</td>
<td>0710</td>
</tr>
<tr>
<td>Tests and Measurements</td>
<td>0288</td>
</tr>
<tr>
<td>Vocational</td>
<td>0174</td>
</tr>
</tbody>
</table>

SOCIAL SCIENCES

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Studies</td>
<td>0223</td>
</tr>
<tr>
<td>Anthropology</td>
<td>0322</td>
</tr>
<tr>
<td>Cultural</td>
<td>0226</td>
</tr>
<tr>
<td>Physical</td>
<td>0327</td>
</tr>
<tr>
<td>Business Administration</td>
<td>0310</td>
</tr>
<tr>
<td>Accounting</td>
<td>0272</td>
</tr>
<tr>
<td>Banking</td>
<td>0370</td>
</tr>
<tr>
<td>Management</td>
<td>0454</td>
</tr>
<tr>
<td>Marketing</td>
<td>0326</td>
</tr>
<tr>
<td>Canadian Studies</td>
<td>0365</td>
</tr>
<tr>
<td>Economics</td>
<td>0501</td>
</tr>
<tr>
<td>Agricultural</td>
<td>0500</td>
</tr>
<tr>
<td>Commerce</td>
<td>0705</td>
</tr>
<tr>
<td>Finance</td>
<td>0418</td>
</tr>
<tr>
<td>History of</td>
<td>0510</td>
</tr>
<tr>
<td>Labor</td>
<td>0511</td>
</tr>
<tr>
<td>Theory</td>
<td>0512</td>
</tr>
<tr>
<td>Fulbright</td>
<td>0706</td>
</tr>
<tr>
<td>Geography</td>
<td>0366</td>
</tr>
<tr>
<td>Geology</td>
<td>0531</td>
</tr>
<tr>
<td>General</td>
<td>0178</td>
</tr>
</tbody>
</table>

THE SCIENCES AND ENGINEERING

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>0473</td>
</tr>
<tr>
<td>Agronomy</td>
<td>0285</td>
</tr>
<tr>
<td>Animal Culture</td>
<td>0475</td>
</tr>
<tr>
<td>Animal Pathology</td>
<td>0476</td>
</tr>
<tr>
<td>Food Science and Technology</td>
<td>0359</td>
</tr>
<tr>
<td>Forestry and Wildlife</td>
<td>0478</td>
</tr>
<tr>
<td>Plant Culture</td>
<td>0479</td>
</tr>
<tr>
<td>Plant Pathology</td>
<td>0480</td>
</tr>
<tr>
<td>Plant Physiology</td>
<td>0509</td>
</tr>
<tr>
<td>Range Management</td>
<td>0777</td>
</tr>
<tr>
<td>Wood Technology</td>
<td>0746</td>
</tr>
<tr>
<td>Biology</td>
<td>0306</td>
</tr>
<tr>
<td>General</td>
<td>0287</td>
</tr>
<tr>
<td>Anatomy</td>
<td>0308</td>
</tr>
<tr>
<td>Biochemistry</td>
<td>0309</td>
</tr>
<tr>
<td>Cell</td>
<td>0379</td>
</tr>
<tr>
<td>Ecology</td>
<td>0379</td>
</tr>
<tr>
<td>Entomology</td>
<td>0353</td>
</tr>
<tr>
<td>Genetics</td>
<td>0369</td>
</tr>
<tr>
<td>Genetics</td>
<td>0793</td>
</tr>
<tr>
<td>Microbiology</td>
<td>0410</td>
</tr>
<tr>
<td>Molecular</td>
<td>0307</td>
</tr>
<tr>
<td>Morphology</td>
<td>0377</td>
</tr>
<tr>
<td>Oceanography</td>
<td>0413</td>
</tr>
<tr>
<td>Physiology</td>
<td>0433</td>
</tr>
<tr>
<td>Radiol</td>
<td>0871</td>
</tr>
<tr>
<td>Veterinary Science</td>
<td>0778</td>
</tr>
<tr>
<td>Zoology</td>
<td>0472</td>
</tr>
<tr>
<td>Botany</td>
<td>0786</td>
</tr>
<tr>
<td>Medical</td>
<td>0780</td>
</tr>
</tbody>
</table>

EARTH SCIENCES

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biogeochemistry</td>
<td>0425</td>
</tr>
<tr>
<td>Geochemistry</td>
<td>0965</td>
</tr>
</tbody>
</table>

Geodesy                           | 0707 |
Geology                            | 0707 |
Geophysics                         | 0373 |
Hydrology                          | 0388 |
Mineralogy                         | 0411 |
Paleobotany                         | 0345 |
Paleoecology                        | 0416 |
Paleontology                        | 0385 |
Paleoecology                        | 0985 |
Paleoanatomy                        | 0427 |
Paleography                         | 0632 |
Physical Geography                 | 0568 |
Physical Oceanography              | 0145 |

HEALTH AND ENVIRONMENTAL SCIENCES

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Sciences</td>
<td>0763</td>
</tr>
<tr>
<td>Health Sciences</td>
<td>0566</td>
</tr>
<tr>
<td>General</td>
<td>0300</td>
</tr>
<tr>
<td>Anthropology</td>
<td>0972</td>
</tr>
<tr>
<td>Chemistry</td>
<td>0567</td>
</tr>
<tr>
<td>Dentistry</td>
<td>0350</td>
</tr>
<tr>
<td>Education</td>
<td>0759</td>
</tr>
<tr>
<td>Human Development</td>
<td>0758</td>
</tr>
<tr>
<td>Immunology</td>
<td>0962</td>
</tr>
<tr>
<td>Medicine and Surgery</td>
<td>0563</td>
</tr>
<tr>
<td>Mental Health</td>
<td>0347</td>
</tr>
<tr>
<td>Nursing</td>
<td>0569</td>
</tr>
<tr>
<td>Nutrition</td>
<td>0570</td>
</tr>
<tr>
<td>Obstetrics and Gynecology</td>
<td>0380</td>
</tr>
<tr>
<td>Occupational Health and Therapy</td>
<td>0334</td>
</tr>
<tr>
<td>Ophthalmology</td>
<td>0381</td>
</tr>
<tr>
<td>Pathology</td>
<td>0751</td>
</tr>
<tr>
<td>Pharmacology</td>
<td>0419</td>
</tr>
<tr>
<td>Pharmacy</td>
<td>0572</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td>0382</td>
</tr>
<tr>
<td>Public Health</td>
<td>0573</td>
</tr>
<tr>
<td>Radiology</td>
<td>0574</td>
</tr>
<tr>
<td>Recreation</td>
<td>0575</td>
</tr>
</tbody>
</table>

PHYSICAL SCIENCES

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pure Sciences</td>
<td>0485</td>
</tr>
<tr>
<td>Chemistry</td>
<td>0485</td>
</tr>
<tr>
<td>Agricultural</td>
<td>0749</td>
</tr>
<tr>
<td>Analytical</td>
<td>0486</td>
</tr>
<tr>
<td>Biochemistry</td>
<td>0487</td>
</tr>
<tr>
<td>Inorganic</td>
<td>0488</td>
</tr>
<tr>
<td>Organic</td>
<td>0490</td>
</tr>
<tr>
<td>Nuclear</td>
<td>0491</td>
</tr>
<tr>
<td>Physical</td>
<td>0495</td>
</tr>
<tr>
<td>Polarity</td>
<td>0754</td>
</tr>
<tr>
<td>Radiation</td>
<td>0405</td>
</tr>
<tr>
<td>Mathematics</td>
<td>0405</td>
</tr>
<tr>
<td>Physics</td>
<td>0405</td>
</tr>
<tr>
<td>Acoustics</td>
<td>0986</td>
</tr>
<tr>
<td>Astronomy</td>
<td>0406</td>
</tr>
<tr>
<td>Astrophysics</td>
<td>0748</td>
</tr>
<tr>
<td>Atmospheric Science</td>
<td>0406</td>
</tr>
<tr>
<td>Atomic</td>
<td>0607</td>
</tr>
<tr>
<td>Electronics and Electricity</td>
<td>0759</td>
</tr>
<tr>
<td>Electrical Processes</td>
<td>0610</td>
</tr>
<tr>
<td>Fluid and Plasma</td>
<td>0610</td>
</tr>
<tr>
<td>Nuclear</td>
<td>0752</td>
</tr>
<tr>
<td>Optics</td>
<td>0752</td>
</tr>
<tr>
<td>Radiation</td>
<td>0756</td>
</tr>
<tr>
<td>Solid State</td>
<td>0751</td>
</tr>
<tr>
<td>Statistics</td>
<td>0663</td>
</tr>
</tbody>
</table>

APPLIED SCIENCES

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applied Mechanics</td>
<td>0346</td>
</tr>
<tr>
<td>Computer Science</td>
<td>0784</td>
</tr>
</tbody>
</table>

Speech Pathology                    | 0489 |
Sociology                           | 0383 |
Home Economics                      | 0386 |

ENGINEERING

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>0537</td>
</tr>
<tr>
<td>Aerospace</td>
<td>0538</td>
</tr>
<tr>
<td>Agricultural</td>
<td>0239</td>
</tr>
<tr>
<td>Automotive</td>
<td>0540</td>
</tr>
<tr>
<td>Biomedical</td>
<td>0541</td>
</tr>
<tr>
<td>Chemical</td>
<td>0242</td>
</tr>
<tr>
<td>Civil</td>
<td>0543</td>
</tr>
<tr>
<td>Electronics and Electrical Systems</td>
<td>0548</td>
</tr>
<tr>
<td>Heat and Thermodynamics</td>
<td>0548</td>
</tr>
<tr>
<td>Hydraulic</td>
<td>0545</td>
</tr>
<tr>
<td>Industrial</td>
<td>0546</td>
</tr>
<tr>
<td>Marine</td>
<td>0547</td>
</tr>
<tr>
<td>Materials Science</td>
<td>0794</td>
</tr>
<tr>
<td>Mechanical</td>
<td>0548</td>
</tr>
<tr>
<td>Metallurgy</td>
<td>0743</td>
</tr>
<tr>
<td>Mining</td>
<td>0551</td>
</tr>
<tr>
<td>Nuclear</td>
<td>0552</td>
</tr>
<tr>
<td>Packaging</td>
<td>0549</td>
</tr>
<tr>
<td>Petroleum</td>
<td>0765</td>
</tr>
<tr>
<td>Sanitary and Municipal System</td>
<td>0554</td>
</tr>
<tr>
<td>System Science</td>
<td>0790</td>
</tr>
</tbody>
</table>

GEOLOGY

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geology</td>
<td>0428</td>
</tr>
<tr>
<td>Operation Research</td>
<td>0776</td>
</tr>
<tr>
<td>Plastics Technology</td>
<td>0795</td>
</tr>
<tr>
<td>Textile Technology</td>
<td>0994</td>
</tr>
</tbody>
</table>

PSYCHOLOGY

<table>
<thead>
<tr>
<th>Subject Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>0621</td>
</tr>
<tr>
<td>Behavioral</td>
<td>0384</td>
</tr>
<tr>
<td>Clinical</td>
<td>0622</td>
</tr>
<tr>
<td>Developmental</td>
<td>0620</td>
</tr>
<tr>
<td>Experimental</td>
<td>0623</td>
</tr>
<tr>
<td>Industrial</td>
<td>0625</td>
</tr>
<tr>
<td>Personality</td>
<td>0989</td>
</tr>
<tr>
<td>Physiological</td>
<td>0149</td>
</tr>
<tr>
<td>Psychometrics</td>
<td>0632</td>
</tr>
<tr>
<td>Social</td>
<td>0451</td>
</tr>
</tbody>
</table>
The undersigned hereby recommend to
the Faculty of Graduate Studies and Research
acceptance of the thesis,

FEDERAL-PROVINCIAL RELATIONS IN IMMIGRATION:
A CASE STUDY IN ASYMMETRICAL FEDERALISM

submitted by
Joseph Garcea, B.A.(Hons.), M.A., M.P.A.
in partial fulfilment of the requirements
for the degree of Doctor of Philosophy

Chair, Department of Political Science

Thesis Supervisor

External Examiner

Carleton University
November 12, 1993
ABSTRACT

This is a case study of asymmetrical federalism within the Canadian federal system in the field of immigration from 1971 to 1991. The central objective is to ascertain the determinants of asymmetry in the alignment of roles between successive federal governments and their counterparts in Quebec, compared to that between the former and their counterparts in the other provinces, in various phases of the immigration process during that era.

In examining the determinants of the asymmetrical alignment of roles this study employs a neo-institutional state-centric model of policy-making which places the analytical focus on the preferences, interests, and capacities of the federal and provincial governments. The study concludes that the asymmetrical alignment of roles in immigration in recent decades was largely a function of two key factors. The first major factor was the differences between successive Quebec governments and their counterparts in the other provinces in their respective preferences regarding the roles which they wished to perform in planning and managing immigration which, in turn, were based on differences in their respective calculations regarding the advantages and disadvantages that performing or not performing certain roles would have on their superordinate regime and non-regime interests. The second major factor was the capacity of Quebec governments to constrain their
federal counterparts to accede to their demands to perform key roles in planning and managing immigration.

The findings of this study help to substantiate criticisms in the Canadian federalism literature of the proposition of the competitive state-building and province-building theories regarding the tendency of all federal and provincial governments to compete in appropriating and exercising jurisdictional authority in all policy fields. The findings of this study suggest that in the field of immigration such tendencies have not been uniform either across provinces or even within some of the provinces over time. The findings also raise questions regarding the postulation in a prevalent state-centric model of federal-provincial relations that the federal and provincial governments’ decisions to appropriate and exercise jurisdictional authority are motivated exclusively or at least primarily by their respective regime interests. The findings of this study suggest that such decisions are motivated by the results of the governments’ calculations regarding the effect that it will have not only on their regime interests but also on their non-regime interests.

The study also concludes that in an effort to develop sound propositions and possibly a theory regarding the determinants of asymmetrical federalism, further study is required of the nature and determinants of asymmetries in other policy fields within the Canadian federal system.
ACKNOWLEDGMENTS

The preparation of this thesis was facilitated by the assistance and support of many people to whom I wish to express my deepest and most sincere appreciation. First, I wish to thank my thesis supervisor, professor Alain G. Gagnon, and members of my thesis committee, professor Glen Toner and professor Bruce G. Doern for their guidance and assistance at various stages of this project. Second, I wish to thank the elected and appointed federal and provincial officials who assisted me with my research either by graciously agreeing to be interviewed or by providing me with information which helped me make sense of the complexities of the immigration program and various federal-provincial arrangements. Third, I wish to thank the librarians who helped me in locating various items for the research. Finally, I wish to thank my family, friends, and colleagues whose support made it possible for me to complete this project.

-iii-
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABSTRACT</td>
<td>i</td>
</tr>
<tr>
<td>ACKNOWLEDGMENTS</td>
<td>iii</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>iv</td>
</tr>
<tr>
<td>CHAPTER 1: INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>- Research Focus and Objectives</td>
<td>1</td>
</tr>
<tr>
<td>- Theoretical Perspectives and Approach</td>
<td>12</td>
</tr>
<tr>
<td>- Research Design and Data Sources</td>
<td>15</td>
</tr>
<tr>
<td>- Organization</td>
<td>20</td>
</tr>
<tr>
<td>- Endnotes</td>
<td>23</td>
</tr>
<tr>
<td>CHAPTER 2: POLICY-MAKING IN THE INTERGOVERNMENTAL ARENA:</td>
<td>28</td>
</tr>
<tr>
<td>A STATE-CENTRIC MODEL</td>
<td></td>
</tr>
<tr>
<td>- Introduction</td>
<td>27</td>
</tr>
<tr>
<td>- The Extant Models: An Overview</td>
<td>29</td>
</tr>
<tr>
<td>- A Neo-Institutional State-Centric Model</td>
<td>37</td>
</tr>
<tr>
<td>- The State</td>
<td>38</td>
</tr>
<tr>
<td>- The State Actors</td>
<td>42</td>
</tr>
<tr>
<td>- The Autonomy of State Actors</td>
<td>46</td>
</tr>
<tr>
<td>- The Preferences of State Actors</td>
<td>58</td>
</tr>
<tr>
<td>- The Interests of State Actors</td>
<td>61</td>
</tr>
<tr>
<td>- The Capacities of State Actors</td>
<td>69</td>
</tr>
<tr>
<td>- The Operating Environment of State Actors</td>
<td>75</td>
</tr>
<tr>
<td>- Conclusion</td>
<td>83</td>
</tr>
<tr>
<td>- Endnotes</td>
<td>85</td>
</tr>
<tr>
<td>CHAPTER 3: THE ALIGNMENT OF ROLES</td>
<td>95</td>
</tr>
<tr>
<td>- Introduction</td>
<td>95</td>
</tr>
<tr>
<td>- The Alignment of Roles: The Pre-1971 Era</td>
<td>97</td>
</tr>
<tr>
<td>- The Alignment of Roles: The Post-1971 Era</td>
<td>111</td>
</tr>
<tr>
<td>- Levels Setting</td>
<td>114</td>
</tr>
<tr>
<td>- Recruitment</td>
<td>116</td>
</tr>
<tr>
<td>- Selection</td>
<td>120</td>
</tr>
<tr>
<td>- Admission</td>
<td>128</td>
</tr>
<tr>
<td>- Settlement</td>
<td>129</td>
</tr>
<tr>
<td>- Conclusion</td>
<td>131</td>
</tr>
<tr>
<td>- Endnotes</td>
<td>132</td>
</tr>
</tbody>
</table>
CHAPTER 1
INTRODUCTION

Research Focus and Objectives

An important task for the federal and provincial governments in the Canadian federal system is to align their respective powers and roles in the various policy fields.¹ In undertaking such a task a major issue is whether the alignment of powers or roles between the federal government and each of the provincial governments should be either symmetrical or asymmetrical.²

An important task for analysts of the Canadian federal system is to examine the precise nature and determinants of the alignment of powers or roles that emerge in various policy fields at different junctures in the history of the federation. In undertaking such a task special attention should be devoted to the nature and determinants of the asymmetrical alignment of roles which has emerged in various policy fields in recent decades.³ This includes, for example, pensions, regional development, foreign policy, energy, tax collection, policing, family allowances, student loans, and immigration.⁴

Although several analysts have alluded to the existence of asymmetry in the alignment of powers or roles between the federal government and one or more provinces as compared to others in the aforementioned fields, this phenomenon remains
relatively unexplored and unexplained. This lacuna has resulted because traditionally studies of Canadian federalism have emphasized the centralization and decentralization theme in which the 'pendulum theory of federalism,' which suggests that Canadian federalism is subjected to periodic swings between centralization and decentralization, has served as a major analytical perspective. Such a perspective, however, overlooks the fact that the proverbial 'pendulum' did not, and does not, necessarily swing in the same direction or at the same rate for all the provinces in terms of the changes either to their respective powers or roles vis-a-vis the federal government in various policy fields. Given the asymmetry in various fields of public policy, perhaps the time has come to supplant the single-pendulum image of federal-provincial relations with a ten pendula image, and perhaps even twelve if one includes the federal government's relations with the two territories. More research is needed to explain when and why the pendula have swung, and continue to swing, in different directions, or at least at different rates, for the various provinces in a given policy field. This is a particularly important endeavour at a time when asymmetry in the alignment of roles is increasing in several policy fields.

The need to know more about the nature and determinants of asymmetries in various policy fields is particularly
crucial at yet another critical juncture in the history of Canadian federalism when one of the key issues has been, and continues to be, whether the alignment of powers and roles between the federal government and each of the provinces in the various policy fields should be either symmetrical or asymmetrical. The decisions of the federal and provincial governments on this issue could have important implications for the harmony and unity of the Canadian polity. In this context, it is important that politicians, bureaucrats, journalists and the public all have a better understanding of the nature, determinants and, insofar as possible, also the effects of existing patterns of symmetry and asymmetry in the various policy fields. This study is designed to contribute to that understanding by examining the nature and determinants of the asymmetrical alignment of roles in one policy field, namely immigration, in recent decades. Explaining the effects of such asymmetry is somewhat beyond the scope of this study.

Under section 95 of Canada’s Constitution Act, 1867 immigration is a field of concurrent jurisdiction with federal paramountcy. Moreover, under the constitution every province has equal jurisdictional authority in this field. Although there has not been any change to the alignment of constitutional powers between the federal and provincial governments in the field of immigration since 1867, periodically there have been changes to the alignment of
roles in planning and managing immigration between the federal government and one or more provincial governments. Some of the most significant of such changes this century occurred between 1971 and 1991. This is particularly true of the changes to the alignment of roles between the federal and Quebec governments in the levels-setting, recruitment, selection and settlement phases of the immigration process. Those changes are significant not only because they modified the longstanding alignment of roles between the federal and Quebec governments, but also because they produced unprecedented differences or, if you will, asymmetry in the alignment of roles between successive federal and Quebec governments as compared to the alignment of roles between those same federal governments and their counterparts in the other nine provinces. Although some asymmetry existed among the other nine provinces, it was relatively minor and relatively insignificant in terms of its implications for planning and managing the bulk of immigration destined to their respective territories.

The central objective of this study is to ascertain the determinants of asymmetry in the alignment of roles in the various phases of the immigration process between successive federal and Quebec governments compared to the alignment between the former and their counterparts in the other nine provinces from 1971 to 1991. Nevertheless, the organization and content of this study also provides an
analysis of the nature and determinants of the alignment of roles between successive federal governments and their counterparts in each province during that era.

In searching for the determinants of the alignment of roles in the field of immigration, the principal focus of this study is on the intergovernmental politics surrounding this policy issue. Such a focus is useful because, as subsequent chapters of this study reveal, the key decisions regarding the alignment of roles in the field of immigration were the product of consultations and negotiations conducted in camera and largely on a bilateral basis within the intergovernmental arena between federal and provincial governments. Neither their respective legislatures nor any societal groups had a major direct role in making decisions regarding the precise alignment of roles. The policy-making process that produced the alignment of roles between the federal and provincial governments was much more closed than the one in which immigration and refugee policy was developed during the same era."

Ideally, in an effort to achieve a fuller explanation of the determinants of policy decisions made within the intergovernmental arena some attention should be devoted to the corresponding intragovernmental politics at both the federal and provincial levels. Undoubtedly, intragovernmental politics were quite significant in shaping both the preferences of each government regarding the
alignment of roles as well as the means that they utilized in their efforts to achieve the alignment which they preferred. Hence, they should be examined. Unfortunately the nature of the Canadian parliamentary system, characterized by its principles of cabinet and caucus confidentiality and solidarity as well as bureaucratic anonymity, makes it is very difficult to collect information on intragovernmental politics. The problems posed by the lack of information due to confidentiality and anonymity are compounded by those of the time and resources that would be required in trying to collect the requisite information on intragovernmental politics on a host of specific issues, for eleven different jurisdictions, dozens of federal and provincial governments that have been in power, and a plethora of governmental organizations and individuals therein, over a period of more than two decades. The analysis of the intra-governmental politics in Ottawa or any of the provincial capitals related to the alignment of roles in immigration during that era would constitute a study in its own right. For all intents and purposes of this study, therefore, each government is treated as a relatively unified actor in which there is a general consensus regarding the means and ends of public policy.  

Although some studies have examined the intergovernmental politics of the alignment of roles between the two orders of government in the field of immigration
much remains to be explored and explained both at the empirical and theoretical levels.\textsuperscript{11} At the empirical level there is still no comprehensive and detailed analysis of the intergovernmental politics which shaped the alignment of roles between successive federal governments and their counterparts in each province since 1971.\textsuperscript{12} The bulk of the extant literature which devotes attention to the determinants of the alignment of roles in immigration focuses on the period prior to 1971.\textsuperscript{13} Although some of that literature devotes attention to the post-1971 era, it does not provide a detailed analysis of the bilateral consultations, negotiations, and agreements on the alignment of roles between successive federal governments and their counterparts in each province which are the principal focus of this study.\textsuperscript{14} At the theoretical level, there is still a need for a systematic analysis of the alignment of roles using a formal explicit model of the politics of policymaking within the intergovernmental arena.\textsuperscript{15} While covering some of the same territory and benefitting from some of the empirical and theoretical insights of the extant published and unpublished studies, the present study provides a more comprehensive and explicitly theoretically based analysis of the intergovernmental politics that produced the asymmetrical alignment of roles in the field of immigration from 1971 to 1991 than is currently available.\textsuperscript{16}
In addition to its contribution in explaining the determinants of the alignment of roles in the field of immigration, this dissertation also makes a contribution to the collective effort in the federalism literature to develop a theory, or at least sound generalizations, regarding the determinants of various facets of federal-provincial relations, including the alignment of roles between the two orders of government. Unfortunately, despite the extensive attention that has been devoted to federal-provincial relations and policy-making within the Canadian federal system, there is no widely accepted theory regarding the alignment of roles between the federal and provincial governments within the Canadian federation.\textsuperscript{17} Indeed, even what seemed to be a promising line of theorizing was adversely affected when the validity of a key proposition in the so-called province-building and competitive state-building theories was questioned.\textsuperscript{18} Serious and valid questions were raised about the proposition that the federal and provincial governments are in an incessant competition to appropriate and exercise jurisdictional authority in various policy fields. That proposition was most clearly articulated in Alan Cairns' work wherein he depicted the federal and provincial governments as "lumbering mastodons in tireless competition" for jurisdictional authority to plan and manage various policy fields.\textsuperscript{19} According to Cairns, the penchant for
governments to appropriate and exercise jurisdictional authority is particularly strong in fields with overlapping and unclearly demarcated jurisdictional lines. In his words:

The nature of the federal system with its fuzzy lines of jurisdictional demarcation, and the extensive overlapping of the potential for government response, means that in innumerable fields there is, in fact, an intergovernmental competition to occupy one field, and slackness by one level of government provides a pre-emptive strike by the other.\(^20\)

Cairns added that competition for appropriating and exercising jurisdictional authority is generally not based on an irrational lust for power without purpose. He cited two interrelated factors in explaining what drives such competition. The first factor is their desire to obtain the jurisdictional wherewithal to accomplish their respective policy goals relatively unfettered by the other level of government.\(^21\) In Cairns' words:

The federalism of contemporary big government at both levels of government can best be understood in terms of the tendency of each government to seek to minimize the policy contradictions in its own jurisdiction and reduce the environmental uncertainty emanating from the conduct of other governments....Each government, in brief, strains, to exaggerate somewhat, to attain and exercise the powers of a unitary state. This tendency is unavoidable as long as each views the conduct of the other government as threatening to its own pursuits.\(^22\)

The second factor is the desire of the federal and
provincial governments to enhance both their respective electoral and regime support. The desire to enhance their regime status, according to Cairns, is essential both to safeguard their existing jurisdictional authority and to provide them with the requisite political resources whenever changes are considered to the division and exercise of jurisdictional authority. The reason for this is that governments realize that "...political support is frequently as important as the possession of constitutional powers in determining the de facto distribution of policy responsibilities in federal systems." In sum, the key proposition in the province-building and competitive state-building theories is that governments are engaged in an incessant competition to appropriate and exercise jurisdictional authority in all policy fields, especially those in which there is concurrent, unclear or overlapping jurisdiction.

In recent years some analysts have suggested that such a proposition does not apply to all governments in all policy fields, at all times. Donald Smiley, for example, criticized Cairns' notion that all governments have "an inherent disposition always to extend the scope of their activities." He added that "this is by no means always so; for ideological and other reasons governments are sometimes disposed to cut back the scope of their actions."
Smiley's critique of Cairns' proposition echoes points raised by R.A. Young, Philippe Faucher, and André Blais in their critique of certain propositions embodied by the province-building perspective. They were particularly critical of the proposition that since the early-sixties, provinces, simultaneously and with considerable uniformity, "have come to resist federal incursions more staunchly and have increased their self-serving demands upon Ottawa."\textsuperscript{27} In criticizing that proposition they noted that "staunch jurisdictional defence and exigent demands upon Ottawa are not new and are not uniform across policy fields or provinces."\textsuperscript{28} They also suggested that ". . . easy acceptance of the province-building image, which emphasizes uniformity and contemporaneity, has obscured interesting variations in provincial policy that deserve study."\textsuperscript{29} They added that:

No one could deny that in recent years there has been important provincial demands upon Ottawa, most notably by Quebec, as well as instances of determined resistance to central policies, especially by Alberta. But these attitudes have not been uniform across provinces or policy fields, nor are they unprecedented. . . . Resistance to jurisdictional incursions varies across policy fields. A simple focus on intransigence obscures instances of slack defence, and questions about these may be very important in explaining what provincial governments do.\textsuperscript{30}

By extension, of course, one could add that such questions would also be very important in explaining both what federal governments do and, among other things, the alignment of
roles between the federal and provincial governments in various policy fields, including immigration. Young, Blais and Faucher added that:

The concept of province-building obscures significant questions about which jurisdictional fields are defended against what forms of incursion, about which sectors and problems command provincial attention, and about which tools of intervention are used when and on behalf of whom.... Province-building in short, does not constitute a recognizable whole, and its deployment as such impedes precise analysis of provincial and federal-provincial activity."

By logical extension, of course, the same can be said of the competitive state-building concept. Young, Faucher and Blais concluded that in order to move beyond the simplistic assumptions embodied in the province-building perspective "empirical study is essential." The findings of this dissertation regarding the determinants of the alignment of roles in the field of immigration contribute to that task. Its contribution in that respect is discussed in the concluding chapter.

**Theoretical Perspectives and Approach**

How are the determinants of the alignment of roles between the federal and provincial governments in the field of immigration, or any other policy field, to be explained? The central contention of this study is that in order to explain the determinants of the alignment of roles it is necessary to focus on the preferences, interests and
capacities of the federal and provincial governments. To facilitate such an analysis this study employs a state-centric model of policy-making within the intergovernmental arena which is developed in the next chapter.\textsuperscript{32} The fundamental premise of the model is that in explaining the determinants of policies developed within the intergovernmental arena, the federal and provincial governments must be conceptualized as relatively autonomous actors who have both policy preferences and interests which are not simply reflective of those of societal actors, as well as the capacity to pursue them. The model consists of four key propositions. First, policies developed within the intergovernmental arena reflect the policy preferences of at least one senior government within the Canadian federal system. Second, the policy preferences of the federal and provincial governments are a function of their calculations regarding the effect that various alternative policy options are likely to have on their regime and non-regime interests given their assessment both of their programmatic capacity and also of the significance of various forces emanating from the political, social, and economic spheres of their operating environment. Third, that where the policy preferences of the federal and provincial governments converge, the policies will reflect their respective preferences. Fourth, that where the policy preferences of the federal and provincial governments diverge, the policies
will reflect the preferences of the government(s) with the bargaining capacity to constrain the other(s) to accept its(their) preferred policy option(s).

Although this model outwardly resembles the state-centric model proffered by Alan Cairns, there is an important difference between the two in their key assumptions regarding the determinants of the dynamics of federal-provincial relations and policy decisions made within the intergovernmental arena. Unlike the latter, the former does not embody the basic assumption that generally such determinants are to be found in the competition between the federal and provincial governments, all of whom are motivated primarily by the desire to maximize their respective power within the political system. The model proffered in this study does not embody the assumption that the federal and provincial governments are simply 'power maximizers' who are motivated primarily by their regime interests. Instead, it embodies the assumption that they are complex organizational entities with an array of regime and non-regime interests which they attempt to maximize or, at least, satisfy. Such an assumption requires that in our collective efforts to develop sound generalizations and theories regarding the determinants of the dynamics of federal-provincial relations and policy decisions made in the intergovernmental arena, we explore the calculus of governmental and intergovernmental decision-
making and attempt to ascertain precisely which interests
they seek to maximize or satisfice, and the extent to which
their organizational capacities permit them to do so. This
is the perspective which informs this analysis of the
determinants of the alignment of roles in the field of
immigration.

Research Design and Data Sources

The utilization of the state-centric model proffered in
this study in ascertaining the determinants of the
asymmetrical alignment of roles in the field of immigration
from 1971 to 1991 entails two key analytical tasks. The
first task is to identify the preferences of the successive
federal and provincial governments regarding the alignment
of roles, and the factors which shaped the same. This will
require, in turn, an examination of the results of complex
calculations conducted by the federal and provincial
governments regarding the advantages and disadvantages that
either performing or not performing certain roles would have
for their respective superordinate regime and non-regime
interests. The second major analytical task is to identify
differences in the preferences of federal and provincial
governments regarding the alignment of roles, and to
ascertain which government's preferences prevailed in
shaping the alignment of roles and why.

In accomplishing those tasks this study employs what
Richard Simeon referred to as a process approach. In ascertaining the determinants of policy decisions such an approach places the analytical focus on the policy process and various factors that impinge upon it. In this particular case study the focus will be on the intergovernmental policy-making process. In focusing on that process special attention is devoted to the preferences, interests, and capacities of federal and provincial governments and the various environmental factors which impinged upon their decisions regarding which of them should perform various roles in the field of immigration.

In order to shed light on the sequence, timing and historical context of various decisions regarding the alignment of roles made by the federal and provincial governments, this study employs an historical and largely chronological approach. When examining a series of decisions, as is the case in this particular study, such an approach facilitates a fuller understanding of the determinants of each decision and the relationship, if any, between successive decisions.

In examining the decisions of the federal and provincial governments regarding the alignment of roles this study has relied extensively on information collected from three major sources. First, information was collected from standard media sources such as newspaper and magazine articles, as well as television and radio reports. Second,
information was also collected from various government documents such as parliamentary and legislative debates, reports of various committees and task forces established by the federal and provincial governments and legislatures, briefs presented by various governmental and non-governmental organizations to those committees and task forces, annual reports of federal and provincial departments, policy papers and press releases issued by federal and provincial ministers, and various other records and reports of the federal and provincial governments. Third, most of the information on the factors which led the federal and provincial governments to align their roles as they did was obtained through interviews with federal and provincial elected and non-elected officials who were either directly involved in, or knowledgeable about, the consultations, negotiations and decisions on the alignment of roles in the various phases of the immigration process in recent decades.

All of the elected officials interviewed were cabinet ministers for their respective governments. The majority of those were cabinet ministers responsible either for immigration or central agencies that had a key role in federal-provincial relations. The majority of appointed officials interviewed occupied relatively senior positions in departments and central agencies. Given their position within the bureaucracy most of them had a relatively good
understanding of the political and administrative factors which impinged on various policy preferences and decisions of their governments. Most federal officials worked in departments and central agencies in Ottawa, but several worked in regional offices.

Neither the elected nor the appointed officials who were interviewed were selected on a randomized basis using standard sampling practices. Instead, an effort was made to interview as many officials as was necessary to gather the information required for the analysis. Elected officials were identified primarily by using the Parliamentary Guide. Appointed officials were identified by using both government telephone books as well as a "snowball" approach whereby those who were interviewed suggested other officials who should be interviewed because of their knowledge of issues regarding the alignment of roles in immigration.

The interviews were conducted for several major purposes. First, to obtain information on the precise nature of the alignment of roles in the various phases of the immigration process. Second, to obtain information about the preferences of each government regarding the alignment of roles, and the factors which shaped the same. Third, to obtain information regarding the details of the consultations and negotiations between the governments regarding the alignment of roles. This includes the details of, among other things, their government's position on the
alignment of roles, their negotiating strategies, and whose preferences prevailed, and why.

The interviews were conducted either in person or by phone using a relatively unstructured format. A standardized questionnaire was not used because it would not have been appropriate either for the different purposes that the interviews were conducted or for the different officials who were interviewed. Instead, the questions in each interview were tailored to the official being interviewed. Accordingly, the interview questions dealt with matters which the officials being interviewed could comment on based on their position in government or the bureaucracy at the time which they either dealt with, or followed, a particular issue.

While some of the interviews were relatively short, either because the objective was to obtain information on specific decision, or because the officials contacted could not remember many details regarding a particular decision, most lasted anywhere from thirty minutes to two hours. In a few cases officials were interviewed more than once either for purpose of clarification on issues raised in the previous interview, or for additional information on issues which had not been raised. The interviews were conducted with the understanding that the information would be used on a "not-for-personal-attribution" basis. The number of interviews for each jurisdiction was largely a function both
of the extent to which the alignment of roles was a key issue, and the availability of officials.

**TABLE 1.1**

**INTERVIEWS BY JURISDICTION AND CATEGORY OF OFFICIALS**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Appointed</th>
<th>Elected</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>21</td>
<td>7</td>
<td>28</td>
</tr>
<tr>
<td>Alberta</td>
<td>10</td>
<td>6</td>
<td>16</td>
</tr>
<tr>
<td>British Columbia</td>
<td>12</td>
<td>5</td>
<td>17</td>
</tr>
<tr>
<td>Manitoba</td>
<td>5</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Newfoundland</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>3</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Ontario</td>
<td>6</td>
<td>5</td>
<td>11</td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Quebec</td>
<td>8</td>
<td>6</td>
<td>14</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>5</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>74</strong></td>
<td><strong>45</strong></td>
<td><strong>119</strong></td>
</tr>
</tbody>
</table>

**Organization**

The remainder of this study consists of six chapters. Chapter 2 [Policy-Making in the Intergovernmental Arena: A State-Centric Model] fleshes out a state-centric model of policy-making in the intergovernmental arena of the Canadian federation which is employed in analyzing the determinants of the alignment of roles in subsequent chapters. The chapter consists of two major sections. The first section contextualizes the model among the extant models of policy-making in the intergovernmental arena, and the second section explicates its fundamental premise, key propositions, and key concepts.

Chapter 3 [The Alignment of Roles] provides an overview of the asymmetry in the alignment of key planning and
management roles between successive federal and Quebec governments and that between the former and their counterparts in the other nine provinces. The asymmetry in the alignment of roles among these other nine provinces is also noted.

Chapter 4 [The Alignment of Powers] provides an overview of the division of constitutional powers in the field of immigration under the Constitution Act, 1867 and concludes with an assessment of the extent to which the division of jurisdictional powers has been, and can be, a factor in the alignment of operational roles between the federal and provincial governments.

Chapter 5 [The Politics of the Alignment of Roles: Canada and Quebec] examines the determinants of the alignment of roles between the federal and Quebec governments. In keeping with the overarching objective of this study, the central objective in that chapter is twofold. First, to identify the preferences of successive federal and Quebec governments regarding the alignment of roles and the factors which shaped the same. Second, where their respective preferences diverged, to ascertain which government's preferences prevailed in the resulting alignment of roles and why.

Chapter 6 [The Politics of the Alignment of Roles: Canada and the Other Provinces] examines the determinants of the alignment of roles between successive federal
governments and their counterparts in the various provinces other than Quebec from 1971 to 1991. In keeping with the overarching objective of this study, the central objective in that chapter is twofold. First, to identify the preferences of successive federal governments and their counterparts in those provinces regarding the alignment of roles and the factors which shaped the same. Second, where their respective preferences diverged, to ascertain which government's preferences prevailed in the resulting alignment of roles and why.

Chapter 7 [Conclusion] consists of two major sections. Section one provides a summary of the findings regarding the determinants of the asymmetrical alignment of roles which existed in the field of immigration from 1971 to 1991. In doing so it brings together the key findings in the previous two chapters regarding the determinants of the alignment of roles between successive federal governments and their counterparts in Quebec, as compared to the alignment of roles between the former and their counterparts in other provinces during that era. Section two entails a discussion of the theoretical implications of this study's findings regarding the determinants of the alignment of roles in the field of immigration in developing sound generalizations and possibly a theory on the determinants of the alignment of roles between the federal and provincial governments in various policy fields within the Canadian federal system.
ENDNOTES

1. For all intents and purposes of this study 'powers' refers to the constitutional powers or authority for a government to legislate or to perform certain roles or functions in various policy fields, and 'roles' is generally used in its broadest sense to include planning, management, and administrative roles or functions and financial responsibilities. A distinction between planning, management, and administrative roles and financial responsibilities per se, will be made only where necessary. For example, in cases where one government performs a certain planning, management, or administrative role and the other assumes either part or all of the financial costs.

2. This conceptualization of the symmetrical and asymmetrical alignment of powers and roles is influenced by Kenneth McRoberts’ definition of asymmetrical federalism, that is: "variations among provinces in the respective roles assumed by the federal and provincial governments." See Kenneth McRoberts, "Unilateralism, Bilateralism and Multilateralism: Approaches to Canadian Federalism," in Richard Simeon (Research Coordinator), Intergovernmental Relations (Toronto: University of Toronto Press, 1985), 120.

3. For a very useful conceptualization and classification of asymmetries within the Canadian federal system see David Milne, "Equality or asymmetry: Why Choose?" in Ronald L. Watts and Douglas M. Brown (eds.), Options for A New Canada (Toronto: University of Toronto Press, 1991), 283-307. Milne’s classification consists of two broad categories: constitutional asymmetry and what might be termed programmatic asymmetry. Each of those two major categories consists of two sub-categories. The constitutional asymmetry category consists of constitutional asymmetry in law and constitutional asymmetry in practice. The programmatic asymmetry consists of asymmetry by design which is not available to all provinces, and asymmetry in practice which is available, but is not used, by all provinces. Various types of asymmetries are also identified by Ronald L. Watts, "Presentation on Types of Asymmetrical Federalism," in Richard Simeon and Mary Janigan (eds.), Toolkits and Building Blocks: Constructing a New Canada (Toronto: C.D. Howe Institute, 1991), 134-138.

4. For a list of policy fields in which asymmetry has been evident see Milne, "Equality or asymmetry," 288-291; McRoberts, "Unilateralism, Bilateralism and Multilateralism," 120-121; and Kenneth Norrie, Richard Simeon, and Mark Krasnick, Federalism and the Economic Union (Toronto: University of Toronto Press, 1986), 45-47.

6. For a discussion of the prevalence of the centralization and decentralization theme see Richard Simeon, "Considerations on Centralization and Decentralization," Canadian Public Administration 29:3 (Fall 1986), 445-461. One of the first to highlight the emergence of asymmetries in the alignment of roles within various policy fields in recent decades was Stefan Dupré who referred to the such asymmetries as 'multi-faceted federalism.' See Stefan Dupré, "Contracting-Out: A Funny Thing Happened on the Way to the Centennial," Report, 1964 Conference (Toronto: Canadian Tax Foundation, 1965), 215-217.

7. See Chapter 3 of this study.

8. For a brief discussion of such asymmetry in the alignment of roles see McRoberts, "Unilateralism, Bilateralism and Multilateralism," 120-121.


11. Most of the extant literature on immigration deals with the federal government's immigration policy and not the alignment of roles between the federal and provincial governments. For a succinct overview of the extant literature on immigration policy see Simmons and Keohane, "Canadian Immigration Policy," 424-426.


13. Brossard's analysis focused primarily on the period prior to 1960. Hawkins' analysis of federal-provincial relations in immigration was largely devoted to the period prior to 1971. Stevenson's article focused on the first two decades of Confederation. For a full citation of each of these studies see note 12.

14. Vineberg's article focused on such relations from Confederation until the mid-1980s. Grenier's thesis focused only on Canada-Quebec relations until 1978. Menchion's thesis also focused largely on federal-provincial relations prior to 1980. Hill's thesis focused largely on the period prior to 1983. Moroz's thesis devoted one chapter to an overview of Canada-Quebec relation until 1988. For the full citation of these studies see note 12.

15. Only three of the studies cited above employ an explicit theoretical model in their analysis. Stevenson employs the cooperative federalism model in his analysis of federal-provincial relations in the early decades of Confederation. Grenier employs a competitive state-building model in his analysis of consultations, negotiations and agreements between Canada and Quebec from approximately 1960 until 1978. Hill
employs a Marxist perspective in analyzing federal and provincial involvement in immigration as a case study of social reproduction. The others employ, albeit not explicitly, what might best be described as elite analysis in which federal-provincial relations are deemed to be a function of the preferences of elected and bureaucratic officials at the federal and provincial levels. For a full citation of these studies see note 12.

16. For an interesting discussion of seven alternative hypotheses on the determinants of immigration and refugee policy in Canada and Australia see Parkin, et al., "The Making of Immigration and Refugee Policy," 1-4. They labelled their seven hypotheses: responsible government, bureaucratic dominance, nation-building statism, cosmopolitan elitism, pluralism, business dominance, and populism.

17. For an overview of many of the major studies on federal-provincial relations and policy-making in Canada see Frederick J. Fletcher and Donald C. Wallace, "Federal-Provincial Relations and the Making of Public Policy In Canada: A Review of Case Studies," in Richard Simeon (Research Coordinator), Division of Powers and Public Policy (Toronto: University of Toronto Press, 1985), 125-205.

18. The term competitive state-building was coined by David J. Elkins and Richard Simeon, Small Worlds: Provinces and Parties in Canadian Political Life (Toronto: Methuen, 1980), 295.


20. Ibid., 189.


22. Ibid., 191-192. For a similar point of view, expressed from a public choice perspective, on the rivalry between the two orders of government for jurisdictional authority to deliver public goods see Mark Sproule-Jones, "An Analysis of Canadian Federalism," Publius: The Journal of Federalism (Fall 1974), 127-128.

23. Cairns, "The Other Crisis Of Canadian Federalism," 189. The same point is made by Doern and Phidd who suggest that federal-provincial interaction is "...a dominant element of Ottawa's
policy process both because of the interdependent effect of each level of government's decisions and because of the competition, partisan and otherwise, for citizen loyalty and the acquisition of political credit." Doern and Phidd, Canadian Public Policy, 63. The struggle for popular support among the two orders of government is also underscored by Albert Breton. See Albert Breton, "The Theory of Competitive Federalism," in Garth Stevenson (ed.), Federalism in Canada (Scarborough: McClelland and Stewart, 1989), 463.


26. Ibid., 91.


28. Ibid., 813.

29. Ibid., 784.

30. Ibid., 787; 789.

31. Ibid., 813-814.

32. Ibid., 814.

33. A similar state-centric perspective on the alignment of roles in immigration has been employed, albeit largely implicitly, by Hawkins, Canada and Immigration, Chapters 7-8; 15. A similar state-centric perspective is also employed in their analysis of the determinants of Canadian immigration policy by Simmons and Keohane, "Canadian Immigration Policy," 421-452. For a discussion on the utility of a state-centric perspective balanced by a pluralist perspective in the analysis of the determinants of immigration policy in Canada see Parkin, et al., "The Making of Immigration and Refugee Policy," 17-19.


CHAPTER 2
POLICY-MAKING IN THE INTERGOVERNMENTAL ARENA:
A STATE-CENTRIC MODEL

Introduction

The objective in this chapter is to develop a model of the determinants of policies made within the intergovernmental arena of the Canadian federal system that will be employed in the analysis of the determinants of the alignment of roles in the field of immigration in subsequent chapters. For that purpose the chapter consists of two major sections. The first section provides a brief overview of extant models commonly utilized in explaining the determinants of policies made within the intergovernmental arena, as well commentaries on the need to develop models that provide fuller explanations of the dynamic interaction between societal and state factors. The second section explicates the neo-institutional state-centric model of the determinants of policies made within the intergovernmental arena which is utilized in this study. The model constitutes more of a clarification and refinement of extant neo-institutional state-centric models than a novel alternative. Its principal theoretical strands are drawn from various models in the extant literature. It constitutes an attempt to conceptualize the governments as multi-faceted organizational entities making policy decisions in a complex and dynamic environment.
The Extant Models: An Overview

Analyses of the determinants of policies made within the intergovernmental arena of the Canadian federal system have employed either socio-centric or state-centric models. The essential difference between them is in the importance that they attach to societal and state factors as determinants of policies. Whereas the fundamental premise of socio-centric models is that such policies are primarily a function of forces produced either by societal structures or agents, the fundamental premise of state-centric models is that they are primarily a function of forces produced by state structures or agents.

Socio-centric models can be grouped into two major categories: those which emphasize environmental factors and those which emphasize societal agents as determinants of policies. There are two categories of models that emphasize environmental factors. The first consists of those models utilized both by Marxist and non-Marxists, albeit with different analytical lens, which emphasize changes in political and economic conditions either in the domestic or international system as determinants of policies. The second category consists of models that emphasize changes in the ideological environment as determinants of policies. More specifically, they emphasize changes in political culture or ideology which focus on what Richard Simeon and Ian Robinson have referred to as "...citizens' collective
identities, values, and perception of their interests," and prevailing conceptions of "political community and justice."^5

The second major category of socio-centric models that have been employed in explaining the determinants of policies within the federal system are those that emphasize the interests of societal agents. There are two distinct categories of such models. The first category consists of Marxists and Neo-Marxist models which emphasize the interests and capacities of classes and class fractions respectively as the determinants of change. The second category consists of non-Marxists models which emphasize the interests and capacities of pressure groups and powerful societal elites as determinants of policies.\(^7\)

There are two major categories of state-centric approaches employed in the analysis of the determinants of policies.\(^8\) The first category consists of models that are rooted in legal-institutional approaches which emphasize legal and institutional features of the political system as the determinants.\(^9\) The second category consists of models that are rooted in agentist approaches which emphasize the interests and capacities of state agents as the determinants.\(^10\)

The model proffered in the next section of this chapter falls into the second category of state-centric approaches. It emphasizes the interests and capacities of the federal
and provincial governments as the determinants of policy decisions regarding the alignment of roles in the field of immigration. However, it also attempts to highlight the linkages between the interests and capacities of the governments, their position within the state structure, and various elements and forces in their operating environment. Before explicating that model it is useful both to highlight a consensus which exists among analysts on the need to develop models which are able to take into account societal and state factors in explaining, among other things, the determinants of policies made within the intergovernmental arena. As well, it is useful to highlight what have been described as weaknesses in the extant neo-institutional state-centric agentist models on which the one proffered in this chapter is based, and also reflect on what modifications are necessary in order to overcome such weaknesses.

In recent years several leading analysts have suggested that fuller explanations of, among other things, the determinants of policies made within the intergovernmental arena require that we utilize models that are able to take into account both state and societal factors. Even Alan Cairns, who issued the clarion call on the value of utilizing state-centric approaches in analyzing Canadian federalism, has suggested that "to make sense of our contemporary Canadian condition it is essential to be clear
on the nature of the processes at work in the interaction between the Canadian federal state and Canadian society." 12 Recently those views have also been echoed by Kenneth McRoberts who suggests that "federalism's often intimate relationship with society commends a comprehensive approach that seeks to integrate both state and society into an explanation of public policy." 13 Those comments echo a consensus that state and society should not be conceptualized as two completely dichotomized and independent entities, but as inextricably linked and interdependent. 14 According to the consensus, models which focus exclusively on one and either completely exclude or underestimate the importance of the other provide only partial explanations of the determinants of public policy both inside and outside the intergovernmental arena. 15

While the logic underlying the aforementioned consensus is relatively straightforward, the theoretical and methodological tasks which flow from it are not. If state and society are inextricably linked or entangled in dynamic, complex and interdependent relationships, precisely how are such relationships to be conceptualized in explaining the determinants of policies? Is it necessary, and more importantly is it possible, to develop models which devote more or less equal analytical focus to state and society? 16 Or, can analysts utilize models which direct the principal analytical focus to one or the other while taking into
account the nature and significance of the dynamic interaction between the two? Should analysts employ integrated models which are able to capture the important dynamics between state and society, or must analysts employ several models simultaneously? Furthermore, if integrated models are to be employed then precisely what form should they take: from which half of the socio-centric--state-centric continuum should the bulk of their fundamental assumptions regarding the determinants of change be drawn; are the key variables in the state or society? All of these are important questions which analysts need to reflect upon in selecting or developing models to analyze the determinants of policies.17

The state-centric model proffered in this chapter is an integrated one which draws its key postulations from the state-centric half of the aforementioned continuum, but also embodies assumptions which link state and society. Before explicating the model, however, it is useful to highlight some criticisms made by Richard Simeon and Ian Robinson, either jointly or separately, of the state-centric model that had been utilized by analysts such as Alan Cairns and Donald Smiley in some of their work on Canadian federalism prior to 1980.18

In their criticism of such models Simeon and Robinson have highlighted two major weaknesses. The first is that such models do not give sufficient attention to all the
interests and imperatives that motivate governmental elites. Instead, such models postulate that each government is motivated only by a desire to maximize various dimensions of its power such as electoral support, jurisdictional authority, revenues, and legitimacy. Simeon and Robinson argue, and rightly so, that to explain the actions of governments as "no more than the drive to increase power is partial and misleading." The reason for this is that "political actors seldom pursue power for their own sake alone. They seek broader goals, defined by their ideologies or vision of the good and the possible, and these considerations both direct and constrain power." Consequently, explanations of governmental decisions must devote attention not only to the narrower but also the broader goals of governments, and the interrelationship between the two.

The second major criticism which Simeon and Robinson make of state-centric models that are utilized in explaining federal-provincial relations and changes to the federal system is that they tend to depict governments as operating in a vacuum. They maintain that insufficient attention is devoted to the importance of the environmental forces which generate "...the issues to which they must respond, the bargaining resources available to them and their ability to win popular support." The foregoing criticism on the failure of state-centric approaches to factor in the
environment echoes the one made by Simeon in an article in which he criticized what he termed the "state-autonomy or neo-institutional school" for not devoting sufficient attention to the international and domestic political economy in explanations of changes both to federal-provincial relations and the federal system. He noted that although the school had made a contribution by highlighting institutional factors, power drives of elites, and the attitudes and intentions of leaders as key factors in explaining change, it had not devoted sufficient attention to forces in the domestic and international sphere which are also key determining factors. In his words:

...to fully explain change we are driven to revive our interest in societal forces and in political economy. It is these forces--domestic and international--which provide much of the energy and raw materials which elites mobilize. It is impossible to understand major shifts in the federal system without exploring such factors as global economic forces as they interact with the regionally differentiated domestic economy and territorially defined institutions.... Nor can we understand federalism without looking at changes in the domestic society and economy.... So if we want to understand the evolution of the Canadian federal system we must look beyond the institutional and elite models. It is important to note that Simeon added that the objective of his criticism was not to repudiate state-centric models, but merely to note that analysts have relied too heavily on such models and "...have made little progress in theorizing
state-society linkages." He concluded that: "Of course federalism is about governments, since it is by definition an institutional system. But to argue that the explanation of the relations between these governments can be understood simply in governmental terms is wrong." I agree with Simeon insofar as he means, as I believe he does, that we cannot assume that governments operate in a vacuum. However, this is not to deny that federalism can be understood in 'governmental' terms provided, of course, due attention is given to the fact that in governing their respective communities the governments are not motivated only by a desire to maximize their power, and that they operate in a dynamic environment which they try to understand and react to as best they can, or care to. The environment may generate various forces but the way that the federal and provincial governments respond is a function of: first, their perception and understanding of those forces; second, their calculations of the effect that various responses will have on their interests; and third, their calculations of their respective capacities to respond. All of the aforementioned factors are influenced by, among other things, the position of the governments within the institutional structure of the state. This is the perspective adopted in this chapter in developing a neo-institutional state-centric model of the determinants of policies made within the intergovernmental arena.
A Neo-Institutional State-Centric Model

The fundamental premise of the neo-institutional state-centric model proffered here is that in explaining the determinants of policies made within the intergovernmental arena the federal and provincial governments should be conceptualized as relatively autonomous actors with policy preferences and interests which are not simply reflective of those of societal actors, and that they have the capacities with which to pursue them. The model consists of four key propositions. First, policies reflect the policy preferences of at least one of the senior governments within the Canadian state. Second, the policy preferences of the federal and provincial governments are a function of their calculations regarding the effect that various alternative policy options are likely to have on their interests given their assessment both of their capacity to achieve a given policy goal and the significance of various forces emanating from their operating environment. Third, that where the policy preferences of the federal and provincial governments converge, the policies will reflect their respective preferences. Fourth, that where the policy preferences of the federal and provincial governments diverge the policy decisions will reflect the preferences of the government(s) with the capacity to constrain the other(s) to accept its(their) preferred policy option(s).

The objective in the remainder of this chapter is to
define the key concepts in that premise and those propositions. This includes the state, the key state actors, their autonomy, their preferences, their interests, their capacities, and their operating environment.

The State

The development of a neo-institutional state-centric model of the determinants of policies made within the intergovernmental arena must start with a conceptualization of the Canadian state. In conceptualizing the Canadian state it is useful to distinguish between two major, though not mutually exclusive, categories of neo-institutional state-centric perspectives: agentist and structuralist.26 The essential difference between them is in their respective conceptualization of the key dimensions of states and, in turn, what they deem to be the crucial determinants of public policy. From an agentist perspective states are "...viewed as organizations through which official collectivities may pursue distinctive goals, realizing them more or less effectively given the available state resources in relation to social settings."27 This perspective of states emphasizes what Theda Skocpol referred to as "...the goal oriented activities of state officials" as key determinants of public policy. By contrast, from a structuralist perspective states are viewed "...as configurations of organizations and actions that influence
the meanings and methods of politics for all groups and
classes in society." This perspective emphasizes the
organizational structures of the state as key determinants
of the behaviour of state as well as social actors and
ultimately of public policy. Commenting on the relevance
of this perspective for analyzing public policy within the
Canadian federal system William Coleman and Grace Skogstad
note that it assumes:

...that the preferences and values of
policy actors are shaped fundamentally
by their structural position.
Institutions are conceptualized as
structuring political reality and as
defining the terms and nature of
political discourse.... Political
institutions, accordingly, take on a
life of their own; as autonomous
political actors they promote certain
ideologies and constrain the choices of
individuals.\textsuperscript{30}

Although the foregoing perspectives are useful in
highlighting the relevance of both the structural and agency
dimensions of states, it must be underscored that those
dimensions are not mutually exclusive. The link between the
two is evident in the Canadian federalism and public policy
literature which echoes the assumptions of neo-
institutionalists who have moved away from narrow legal-
institutional conceptualizations of the state to broader
conceptualizations that give greater importance to the way
that various elements of state structures affect the
interests, policy preferences, and capacities of both state
and societal agents, and vice versa.\textsuperscript{31} This dynamic
interaction between the structure and agency dimension of state is captured in the following comment by Leslie Pal:

> While any institution functions only because of the people that make it up, all institutions consist...[of] rules and roles that constrain those people. Institutions change in part as a consequence of what people in them -- agents-- decide to do, but these agents can exercise their creativity only so far.\textsuperscript{32}

While acknowledging the importance of this dynamic relationship between state structure and state agency, the state-centric model of intergovernmental policy-making proffered here is based primarily on the agentist perspective. From such a perspective the Canadian state consists of "...all individuals who occupy [state] offices that authorize them, and them alone, to make and apply decisions that are binding upon any and all segments of society," according to the tenets of the written and unwritten components of the constitution.\textsuperscript{33}

The value of an agentist over a structuralist state-centric approach in explaining changes to the alignment of roles stems from the fact that such changes have occurred in the absence of any major corresponding changes to the structural features of the state.\textsuperscript{34} Its value also stems from the recognition that state agents have some potential and ability to transcend many, if not all, institutional imperatives and constraints. If they did not, all state actors in a given institutional setting would act the same
and, by extension, the policies would be the same regardless of which government was in power. If that were the case, then at least one reason for changing governments would be negated. The case for an agentist conceptualization of the state is made by Eric Nordlinger in the following terms:

Since we are primarily concerned with the making of public policy, a conception of the state that does not have individuals at its core could lead directly into anthropomorphic and reification fallacies....Only individuals have preferences and engage in actions that make for their realization. And only by making individuals central to the definition can Hegelian implications (substantive and metaphysical) be avoided when referring to the state's preferences.

Another important issue in conceptualizing the Canadian state is whether it should be viewed from a Weberian perspective as an single integrated entity or from a neo-Weberian perspective as single disaggregated entity. For all intents and purposes of this study a neo-Weberian perspective is adopted. Consequently, "...both federal and provincial governments must be seen as elements in a single Canadian state with overlapping, if distinct, constituencies and perspectives." Indeed, each order of government could also be disaggregated into its component parts along the lines of individual policy sectors. Such a disaggregated view of the Canadian state is important because it facilitates the conceptualization of the federal
and provincial orders of government as distinct and relatively autonomous components of the Canadian state each with their own preferences, interests and capacities. Furthermore, a disaggregated view of the Canadian state and the two orders of government therein along sectoral lines is important because it reduces the risk of making erroneous assumptions that the policy preferences, interests, and capacities of the federal and provincial governments are uniform across policy sectors. This facilitates a more precise analysis of the such preferences, interests, and capacities of both orders of government on a sectoral basis."

**The State Actors**

A state-centric model of policy-making within the intergovernmental arena which embodies an agentist perspective for conceptualizing the Canadian state requires the identification of the key state actors who make the key policy decisions. The key state actors involved in making such policy decisions are the federal and provincial governments.\(^{46}\) Within the Canadian federal system governments consist of the active units of the executive branch that perform key decision-making roles, rather than largely ceremonial roles. More specifically, this includes members of cabinet and the administrators who work in various departments and agencies for which members of
cabinet are accountable and responsible. 41

The foregoing conceptualization of the federal and provincial governments does not include several key state actors. The most notable of these are: members of the legislature both from the government and opposition sides who are not cabinet members; members of the executive such as the Governor General and the provincial lieutenant governors whose principal role is ceremonial but on occasion can, albeit not without considerable difficulty, exercise considerable power if they choose to do so; and judges of federal and provincial courts who have the capacity to render legislation and intergovernmental agreements invalid if they are not consonant with the constitution. The foregoing conceptualization of state actors does not relegate those who are not in cabinet into conceptual oblivion. Instead, it merely relegates them to the periphery of the decision-making process where they remain important state actors whose views, judgements, and support, both actual and potential, must be taken into account by the federal and provincial governments in their calculations of the advantages and disadvantages of various policy options and the means that they will employ in pursuing any of those options. As shall be explained in greater detail below, they become part of the attentive public, albeit that portion of the attentive public situated within the state. Given the foregoing conceptualization of the governments as
the key state actors for all intents and purposes of this study, it may be more appropriate to term the model proffered here as government-centric, rather than state-centric per se.

An important issue that emerges in developing a neo-neo-institutional state-centric model of the determinants of policies made within the intergovernmental arena pertains to the unity and coherence of the federal and provincial governments. Can, and should, each government be treated as internally coherent entities in which there is widespread agreement about the ends and means of public policy as postulated by the unitary actor model, or should each government be treated as an internally fragmented entity in which there is a widespread disagreement about the ends and means of public policy as postulated by the bureaucratic politics model? This is a question which has been dealt with by various analysts who have either employed a unitary actor or a bureaucratic politics model in analyzing policy-making in the intergovernmental arena.  

Those who have employed the unitary actor model have justified it by pointing to several key features of the parliamentary system that exists at both the federal and provincial level. This includes the dominant position of the cabinet, and the principles and practice of cabinet solidarity and party discipline. These features of the system, it is argued, is what makes it possible for the
federal and provincial governments to operate in a relatively unified and coherent fashion within the intergovernmental arena. Even those who make the foregoing argument, however, acknowledge that it should not be assumed that differences regarding the ends and means of public policy do not exist between elected and non-elected officials, among elected officials, among members of various bureaucratic units, and even members of the same bureaucratic units. The difference among analysts on this point is in their respective views regarding the significance of intra-governmental or bureaucratic politics on the policy outputs of the intergovernmental arena. Some, but notably Richard Schultz, suggest that in some cases they are very significant. Hence, they advocate either the supplantation or at least the supplementation of the unitary actor model within the bureaucratic politics model. From a theoretical standpoint it is difficult to argue with that position. However, from a methodological standpoint such a position can be problematical. Ideally, analysts examining policy-making in the intergovernmental arena should also devote some attention to the bureaucratic politics at the federal and provincial level. Unfortunately, however, given the nature of the Canadian federal system characterized by its longstanding traditions of cabinet and caucus confidentiality and solidarity as well as bureaucratic anonymity make that very difficult, if not impossible.
These traditions, as much as anything else, are what constrains many analysts of policy-making within the intergovernmental arena, including this one, to employ the unitary actor model, and unfortunately devote little attention to the intra-governmental politics. This is not to minimize the value of the contribution of analyses which do not devote extensive attention to intragovernmental politics, but rather to underscore that the resulting explanations of the determinants of public policy are not as fully developed as they should be.

The Autonomy of State Actors

Developing a state-centric model of the determinants of policies made within the intergovernmental arena requires a definition of the autonomy of the federal and provincial governments and a conceptualization of its nature and scope. After all, it is the assumption that state actors possess such autonomy and that they can exercise it which distinguishes state-centric from socio-centric models.45

A nominal definition of state autonomy has been provided by Theda Skocpol, as the "...ability to pursue goals that are not simply reflective of the demands of social groups, classes, or society."46 Several key ideas in that definition must be clarified to avoid any confusion that would seriously compromise its utility. First, the definition focuses on two essential dimensions of state
autonomy: the ability of state actors to formulate policy goals that are not simply reflective of societal demands, and their ability to pursue such goals. Such ability, however, should not be confused with the 'capacity' of governments to realize or achieve those goals. These are analytically distinct issues, even though in practice they are often closely linked. As Skocpol points out, "...the explanation of state capacities is closely related to the explanation of autonomous goal formation by states, because state officials are most likely to try to do things that seem feasible with the means at hand." 47 Nevertheless, the fact that a particular government might not have the capacity to achieve its goals does not, in itself, negate the possibility that it possesses the autonomy to formulate and pursue such goals. 48 That this is so simply requires an understanding of the fact that "...not infrequently, states do pursue goals...that are beyond their reach." 49 In other words, "an autonomous state is not necessarily a policy-capable state." 50

Second, the notion in the foregoing definition that autonomy entails pursuing goals that are not simply reflective of societal demands must also be clarified. Such a notion does not preclude the possibility that the federal and provincial governments may have policy goals that converge with those of societal actors. Convergence, however, should not be confused with reflectiveness. To
assume that in such instances the goals of state actors are simply reflective of the goals of societal actors is as tenuous as to assume that the goals of the latter are simply reflective of the goals of the former. Basic logic suggests that, given such a possibility, it may be more appropriate to postulate that both state and societal actors have the ability to formulate and pursue policy goals simultaneously which are not simply reflective of the policy goals of the other. The important task for analysts in such instances is to determine, insofar as it is possible, the extent to which, if at all, the policy goals of state actors are reflective of those of societal actors, and vice-versa.

This is by no means an easy task in analyzing policy issues in any political system. However, that task becomes even more difficult and complicated in analyzing policy issues within the intergovernmental arena of the Canadian federal system because the issue of convergence and divergence of state and societal preferences does not simply involve one government and one society. Nordlinger's notion of divergence and non-divergence was based on the assumption that analysts would be dealing with one government or state and one society. In a highly decentralized federal system such as Canada's, however, in which one is confronted with a fragmented state and fragmented society along provincial boundaries the issue of convergence and divergence can be much more complicated. At the very least
in bilateral intergovernmental relations, for example, it is necessary to consider the degree of convergence and divergence between the policy preferences of each level of government and that particular provincial society. Invariably, however, even in the case of bilateral federal-provincial relations, the issue is much more complicated. Unless one government has appropriated a policy field and the other governments are totally disinterested and, at the same time, only one provincial society is interested in the policy issue, the policy-making dynamics involve the preferences of at least two governments and at least one provincial society. More often, than not, of course, it involves more governments and more than one provincial society. Consequently, there can be several permutations of convergence and divergence between the various governments and the various societies of the Canadian federal system. Making sense of such permutations is, to say the least, challenging both for governments and analysts, especially since they are highly variable both across and within provinces over time. As Herman Bakvis and William Chandler noted: "The relationship between state and society is not constant, it varies from sub-unit to sub-unit...and over time."

Third, the notion that autonomy entails the ability to formulate and pursue policy goals which are not simply reflective of societal demands refers to a particular type
of autonomy. It does not refer only to the type of autonomy which has been ascribed to state actors by some neo-Marxists and neo-pluralists, namely as the ability to exercise either a brokerage or mediating role in making judgements about which societal demands or wants to accommodate. In other words, it does not refer only to their ability to use their authority and power to make policy choices from among the competing policy demands and policy options provided by societal actors. Rather, it entails the type of autonomy ascribed to the state both by structural-Marxist and non-Marxist state theorists who have conceptualized such autonomy more broadly to include the intellectual capacity of state actors to develop and ultimately even adopt policy options of their own, either in the presence or the absence of any particular demands from, or any policy options provided by, societal actors. This is the type of autonomy which Hugh Heclo alludes to in this statement:

Governments not only "power" [i.e., deciding what societal 'wants' to accommodate] (or whatever the verb form of that approach might be); they also puzzle. Policy-making is a form of collective puzzlement on society's behalf; it entails both deciding and knowing. The process of making... policies has extended beyond deciding what 'wants' to accommodate, to include problems of knowing who might want something, what is wanted, what should be wanted, and how to turn even the most sweet-tempered general agreement into concrete collective action. This process is political, not because policy is a by-product of power and conflict but because some...have undertaken to
act in the name of others. 54

Such a perspective on the nature of state autonomy is particularly useful in analyzing the politics of policy-making within the intergovernmental arena because it alerts us to the possibility that not all autonomous actions by the federal and provincial governments are, in Skocpol's words, "acts of coercion or domination" by state actors over some or all societal actors; they can also be intellectual activities of such governments "...in diagnosing societal problems and framing policy alternatives to deal with them" either in the presence or absence of any societal demands or policy options proffered by societal actors. 55 Consequently, in analyzing the politics of policy-making within the intergovernmental arena we must be clear about whether, in the case of each government involved in a particular policy matter, it entails either puzzling, powering, or both.

As with efforts to analyze convergence and divergence of the interests of state and societal actors, analytical efforts to determine instances of puzzling and powering by state actors are likely to be difficult and complicated. The reason for this is that on any issue at any given time some governments may only be puzzling, some may be powering, and others may be both puzzling and powering. Even if the analytical focus is only on the federal government, the analytical task can be quite complicated given the
possibility that in some instances it may be powering in relation to one provincial society, puzzling in relation to another, and both puzzling and powering in relation to yet another. The analytical task is complicated even further by the fact that policy issues are multi-faceted. Consequently, each government may be powering on one facet of an issue in relation to a particular provincial society, puzzling on another, and possibly doing both in the case of another. The other complicating factor, of course, is that the puzzling and powering activities of the federal and provincial governments are not simply conducted vis-a-vis their respective societies. They are also conducted vis-a-vis each other. Indeed, the powering vis-a-vis each other may be much more significant than the powering vis-a-vis societal actors, in producing a particular policy output.

The discussion to this point has focused on a definition of state autonomy and the precise nature of such autonomy. An equally important analytical issue, of course, is the scope of the autonomy of the federal and provincial governments. To what extent are the federal and provincial governments operating within the intergovernmental arena autonomous in formulating and pursuing their respective policy goals? Are all the governments equally autonomous? Is each government equally autonomous in every policy field and on every issue? And, is such autonomy in each of the aforementioned cases constant? None of these questions can
be answered definitively a priori. However, both logic and
the bulk of the extant literature suggest that the precise
scope of the federal and provincial governments' autonomy
(i.e., the ability to formulate and pursue goals which are
not simply reflective of societal demands) is likely to be
highly variable not only across policy sectors, but also
across policy issues within each policy sector, and even
across time on a given policy issue within a given
sector. Hence, empirical analysis is required to
ascertain the precise scope of autonomy for a particular
issue in a particular policy sector, at a particular point
in time.

In undertaking such an analysis an important caveat is
in order regarding the scope of the federal and provincial
governments' autonomy. To say that the federal and
provincial governments have the ability to formulate and
pursue goals that are not strictly reflective of societal
demands does not mean that there are no constraints on them
either in terms of the precise nature of the goal which they
formulate, or in their ability to pursue such goals. As
Alan Cairns pointed out in his article on the embedded
state, the scope of the governments' autonomy [i.e., to
formulate and pursue goals] can be highly circumscribed
given various constraints that stem from their environment:

The state is unquestionably actor as
well as umpire. Political and
bureaucratic elites have their own goals
for society as well as their own
interests to protect. And, given the massive resources at their disposal, they frequently get their way. However, the stress on autonomy can lead to an uncritical view of the state as aloof and distant. Realistically, autonomy exists only at the margin where the state can play a catalytic role with new ventures. The overriding reality, therefore, is not state autonomy, but interdependence.  

At first blush, Cairns' quote seems to undermine the theoretical value of the notion of governmental autonomy as conceptualized above (i.e., the ability to formulate and pursue goals that are not simply reflective of social demands). However, closer reading of that passage, particularly in its textual context, suggests that Cairns does not deny the existence of some state autonomy in formulating and pursuing policy goals which are not simply reflective of the demands of societal actors even, if to use his words, "it exists only at the margin." Cairns underscores this particular point in the following quote:

The relationship between state and society is not one in which an active vanguard state moulds the responsive clay of an inert society willing to be fashioned according to state dictates. Neither is the state a neutral executor mechanically implementing societal choices and choosing among competing demands by some agreed calculus. It has some autonomy, and its leaders have goals for their people, but goals and autonomy, operate primarily at the margin, skirmishing around the edges of the existing network of established policies linking state and society.

Cairns' observation that the scope of state autonomy at the
margins may be circumscribed, should not be interpreted to mean that it is insignificant. Cairns' point in both of the statements quoted above, which is recognized and readily conceded here, is that the parameters of the autonomy of the federal and provincial governments to formulate and pursue their goals, along with their capacity to achieve them, are highly circumscribed both by environmental forces and but the consequences of past governmental policies including, ironically, their own policies. In other words, governments cannot do precisely what they wish to do as if they were working on a blank slate and in a vacuum. They do not formulate and pursue their policy goals either in the abstract or in an ideal world in which they would not be limited by the preferences of other state and societal actors, existing social and economic conditions (some of which are produced by their own past policies), or the availability of various crucial resources; instead, they have to do so in the real world where each of the aforementioned factors can have significant implications not only both for the precise nature of the goals that they formulate and their ability to pursue those goals but, as alluded to above and shall be discussed in detail below, ultimately also for their capacity to realize them. The federal and provincial governments within the intergovernmental arena are not unique in this respect; no government possesses what might be termed totally unfettered
autonomy in formulating and pursuing 'ideal' goals which achieve 'ideal' results. Furthermore, on a related, but analytically distinct, point none possesses the capacity to realize fully all of its goals. But this does not negate the fact that each of them possesses autonomy in the policy process.

Another important caveat regarding the scope of the autonomy of state actors in formulating and pursuing their goals concerns the nature of the influence of conditions and forces in their operating environment. The influence of such conditions and forces is not always direct. Generally it is indirect as it is mediated by the governments' subjective perceptions and assessments of their significance and, ultimately, if, when, and how they should be factored in their evaluation both of policy problems and potential solutions for dealing with the same. As Charles W. Anderson noted:

...a policy cannot be satisfactorily "explained" simply as a product of certain socioeconomic conditions, or a given configuration of political pressures, or as the outcome of a particular political process, all of which are dominant motifs in contemporary policy study. It is also necessary to know what people thought of prevailing socio-economic conditions, what claims and grievances interested parties brought forward, and how they debated and assessed these problems."

In the Canadian federalism literature those views on the importance on the mediating effect of governmental actors on
socioeconomic conditions and political forces are echoed by Richard Simeon as follows:

The underlying social and institutional factors are far from completely determining the operation of the decision process and its results in particular cases. Rather, their effects are often indirect. They are filtered through and mediated by those who operate the process itself. The governmental elites at both the federal and provincial levels play a crucial independent role.... Thus, to understand the decision-making process it is crucial to study the decision-makers.60

In sum, to say that the federal and provincial governments have the ability to formulate and pursue goals within the intergovernmental arena that are not simply reflective of societal groups does not mean that in doing so they are not exposed to any influences or constraints from their political, social, economic, and normative spheres of their operating environment. They are exposed to such influences and constraints. Within the intergovernmental arena the federal and provincial governments may operate behind closed doors, but they do not operate in a vacuum. They operate in a complex and dynamic environment in which they are exposed to various structural and non-structural forces that emanate from its political, social, economic, and normative spheres and which influences the precise nature of their policy goals, their ability to pursue those goals and, ultimately, also their capacity to achieve those goals.61 Nevertheless, and this is the crucial point here,
provided that they are not pursuing goals that are simply reflective of societal demands, and which are completely devoid of any influence by their own preferences and interests, they are exercising some autonomy. Indeed, even in cases where they are merely choosing from among policy demands or policy options developed by societal actors, they are exercising some degree of autonomy whenever they make independent judgements about which of those demands or options should provide the basis for public policy.

The Preferences of State Actors

How are the preferences of the federal and provincial governments to be conceptualized? The discussion above regarding internal unity or disunity among state actors at the federal and provincial levels has important implications for a state-centric model of the determinants of policy-making in the intergovernmental arena. If we accept that there are differences among such actors is it possible to treat the governments as single coherent entities with widely shared policy preferences? In short, is it possible to speak of either state or governmental policy preferences as opposed to the discrete preferences of various actors therein? Eric Nordlinger provides us with a definition of state policy preferences which makes it possible to do so. He suggests that such preferences are those that have the most support among state actors, particularly among the most
powerful actors:

State preferences, as distinct from the discrete preferences of public officials, are those with the weightiest support of public officials behind them, based on the number of officials on different sides of the issues, the formal power of their offices, their hierarchical and strategic positioning relative to the issue at hand, and the information, expertise, and interpersonal skills at their disposal. 52

Within the context of the Canadian federal system such a conceptualization of state preferences directs our attention to the most powerful members of the cabinet and bureaucracy at the federal and provincial levels. Although the foregoing conceptualization tells us what constitutes state preferences, it tells us nothing about the determinants of either the federal or provincial governments, or the discrete preferences of public officials per se. The question, therefore, remains: What shapes the policy preferences of the federal and provincial governments?

The underlying assumption of neo-weberian state-centric approaches, and the assumption which informs the model being developed here, is that policy preferences of state agents are a function of their calculations regarding the advantages and disadvantages that various policy options have for their key interests. 47 Furthermore, the underlying assumption is that the precise nature of such calculations, that is the importance they give to various interests and capacities, are heavily influenced by certain
variables identified by two versions of neo-institutionalism which deals with the formation of preferences, namely rational choice theory and structural theory. Whereas the former suggests that preferences are stable, exogenous and shaped exclusively by education, indoctrination and experience, the latter suggests that they are variable, endogenous, and shaped largely by institutions and the positions that individuals occupy therein.¹ Without denying the importance of the variables noted by rational choice theory, it is the assumption of the latter theory that informs the model of policy-making in the governmental arena that is being developed in this chapter. It must be underscored, however, that the assumption is not that institutions or the position that individuals occupy therein are in themselves completely determinant of the factors included in the aforementioned calculations and, by extension, the resulting preferences. After all, humans, both individually and collectively, have the ability to transcend institutional imperatives and constraints. If they did not, then it would not matter at all which individuals occupied various positions within institutions. In short, institutions and institutional position are highly influential but not totally determinant of preferences. Consequently, policy preferences or goals of federal and provincial officials cannot be understood only in terms of their structural position. To some extent they are also
influenced by, among other factors, their subjective views of policy legacies and their perception of effect that those will have on their interests.\textsuperscript{65} This phenomenon has important methodological implications in examining the preferences of state actors or any other actors in the political system. As Margaret Weir and Theda Skocpol point out: "...the investigator must take into account meaningful reactions to previous policies" because they "...color the very interests and ideals that politically engaged actors define for themselves at any given point."\textsuperscript{66}

The foregoing assumptions regarding the determinants of the preferences of the federal and provincial governments raise two other key questions which must be answered in developing a state-centric model of federal-provincial relations. What are the key interests of the federal and provincial governments within the Canadian federal system? And what are the determinants of the capacities federal and provincial governments to realize their preferred policy options? Each of these questions is addressed in turn below.

\textbf{The Interests of State Actors}

The interests of the federal and provincial governments within the Canadian federal system are manifold. Of importance here, however, are what Richard Simeon termed "superordinate interests" of the federal and provincial
governments. That is, the primordial interests or objectives that transcend specific issues and are uppermost in the minds of governments regardless of the specific issue being considered. Unfortunately there is no widely accepted classification or taxonomy of such interests. The taxonomy utilized in this study is presented in skeletal form in Table 2.1 and explained below.

Table 2.1

TYPOLOGY OF SUPERORDINATE GOVERNMENTAL INTERESTS

[A] REGIME INTERESTS

[1] PARTISAN REGIME INTERESTS
   [1.1] Electoral Interests

[2] NON-PARTISAN REGIME INTERESTS
   [2.1] Regime-Capacity Interests
   [2.2] Regime-Legitimacy Interests

[B] NON-REGIME INTERESTS

[1] SOCIAL DEVELOPMENT INTERESTS
   [1.1] Demographic Interests
   [1.2] Social Relations Interests

[2] ECONOMIC DEVELOPMENT INTERESTS
   [2.1] Aggregate Performance Interests
   [2.2] Distributional Performance Interests

[3] SYSTEM DEVELOPMENT INTERESTS

For all intents and purposes of this study, it is postulated that governments have two major sets of distinct, but interrelated, interests. The first major set of governmental interests are what might be termed regime interests because they are related to their own well being as organizational entities. There are two sub-types of such
interests, each of which stems from two distinct roles which they perform as organizational entities. First, as partisan political organizational entities that must contest elections, they have electoral interests. More specifically, they are interested in establishing and maintaining a strong base of electoral support that will ensure their re-election. Governments attach a great deal of value to such support because, given the democratic nature of the Canadian federal system, without the requisite amount of such support at election time they would lose their authority to govern.  

Second, as non-partisan political or governmental organizations within the federal system they have what might be termed non-partisan regime interests. Such interests stem from their role as managers of a distinct order of government within the federal system and revolve largely around considerations about the nature, scope, and importance of their respective capacity and authority to govern. There are two major sub-categories of non-partisan regime interests. The first sub-category is regime-capacity interests. All federal and provincial governments want to ensure that they have the capacity to perform what they deem to be the most important and essential governing functions. For that purpose they want to ensure that they have the requisite jurisdictional, financial, human, and political resources to do so.
second sub-category is what might be termed regime-legitimacy interests. They all federal and provincial
governments want to ensure that the legitimacy or status of
that particular regime or order of government is not
compromised. They realize that if such legitimacy is
compromised it will not only hamper their authority to
govern but, ultimately, also their capacity to do so. They
also realize that, among other things, such legitimacy
depends on the efficiency and effectiveness with which they
utilize the resources at their disposal to govern. An
important facet of effective governance, of course, is the
efficient and effective development and implementation of
various policies and programs. The importance of non-
partisan regime interests for the federal and provincial
governments was noted by Keith Banting, in the following
statement in which he suggested that within the policy
processes of the Canadian federal system:

...the interests of governments as
governments take on exceptional
importance.... Every action, every
policy option, is scrutinized with
infinite care to ensure that it does not
weaken the government's hold on its
jurisdiction or fiscal base, that it
does not weaken its bargaining position
in broader federal-provincial
negotiations, and that it does not
jeopardize its legitimacy in the eyes of
the public. More than in many
countries, Canadian public policy is
continuously shaped -- and often mis-
shaped -- by the interests of
governments as governments.
might be termed non-regime interests because they are not
directly related to the well being of the regime, even
though indirectly they certainly are. These interests are
related to the well being of their respective societies and
economies and the political system.\textsuperscript{77} Such interests stem
from their own role conception as delegates or trustees
chosen by the electorate to foster the development of their
societies, economies and politics.\textsuperscript{78} For analytical
purposes three major sub-categories of such interests can be
identified.

First, governments have social development interests.
Every government has an interest in fostering the
development of their respective societies.\textsuperscript{79} There are two
types of social development interests: demographic and
relational. Demographic interests are those pertaining to
matters such as, for example, the size, regional
distribution, age, racial, ethnic, and linguistic
composition of the population in the national or any of the
provincial societies. Relational interests are those
pertaining to matters such as the nature of social relations
between various individuals and groups either in the
national society or in any of the provincial societies.

Second, governments have economic development
interests.\textsuperscript{80} There are two major types of economic
development interests: aggregate economic performance
interests and distributional economic performance interests.
Whereas the former refers to the aggregate performance of either the national or any of the provincial economies, the latter refers to the distribution of wealth among the population either in the country as a whole or in any of the provinces.

Third, governments have what might be termed system development interests. This refers to the interests of the federal and provincial governments either to foster the development of the political system or at the very least maintain it in its existing form. These types of interests are analytically distinct from regime interests discussed above because they extend beyond questions of the capacities and legitimacy of the two orders of government within the existing political system, to include questions regarding the institutional and territorial nature and integrity of the political system and its legitimacy in the eyes of both the governments and the population. Within a federal system it cannot be assumed that all governments will agree on the development of the political system. This is certainly true in Canada where since the 1980 referendum on sovereignty-association in Quebec it is no longer possible to assume that the federal and provincial governments agree about the maintenance or development of the Canadian political system. Similarly, since the 1992 referendum on constitutional reform in which Senate reform was a key issue, it is no longer possible to assume that the federal
and provincial governments agree on the development of major political institutions within the political system.

To reiterate, a key postulation in the model being developed here is that the policy preferences of the federal and provincial governments are based on their calculations of the effect that policy options are likely to have on their various interests. Although they are analytically distinct, in practice all of the aforementioned regime and non-regime interests are inextricably interrelated.

Consequently, rarely, if ever, are the policy preferences of governments based on calculations regarding only one of the aforementioned superordinate governmental interests. Instead, in most, if not all cases, they are based on their complex calculations regarding the effect which they believe various policy options will have on several, if not all, of their respective superordinate interests. What differs at any given point in time is the importance that they attach to the various interests in such calculations. One cannot say _a priori_ either precisely which of those superordinate interests governments take into account in making such calculations, or how they rank each of them either on various issues at a given time or even the same issue at different times.

The state-centric model being developed here does not assume, as do those that espouse public choice assumptions of the essential nature of politics of policy-making within
the intergovernmental arena, that there is clear hierarchy among these interests in which regime interests in general, and electoral interests in particular, are given primacy.\textsuperscript{63} If governments were always driven primarily by such interests, in many cases we would undoubtedly get very different policies and in some cases perhaps no policies at all. Consequently, the primacy that public choice theorists give to certain regime interests must be tempered with the insights that have been provided by neo-institutionalists regarding certain regime and non-regime interests of governments.\textsuperscript{84} That is, those interests which stem from a sense of duty and obligation to achieve effective governance, rather than those which stem from concerns for self-interest and self-aggrandizement either on an individual or organizational level.\textsuperscript{85} The analytical task is to try to determine precisely which interests figured most prominently in the governments' calculations regarding the relative merits of various policy options and, ultimately, in their decision to choose one over the others. The methodological implications of this task are that to understand fully why governments have certain policy preferences and make particular policy decisions it is necessary to ascertain what they believe to be the effect of such decisions on each of the superordinate interests which figure prominently in their respective calculations. That is a matter of empirical investigation and verification.
The Capacities of State Actors

The assumption that the policy preferences of the federal and provincial governments are a function of complex calculations regarding the advantages or disadvantages a particular policy option will have for their interests given their capacities, requires a conceptualization of such capacities. In developing a model of federal-provincial relations and change to the federal system in this chapter it is assumed that there are two major capacities which figure prominently not only in the calculations that shape the policy preferences of the federal and provincial governments, but ultimately also in the ability of one or the other to realize its preferred policy option when their respective preferences differ. The first is programmatic capacity, that is the capacity required to formulate and administer a government program. The second is bargaining capacity, that is the capacity required to bargain with the other order of government to realize a preferred policy when the preferences of two or more governments are not the same.

Such capacities of the federal and provincial governments are a function of various resources which they have at their disposal. Both types of capacities subsume the same major types of resources. The various types of resources are identified in Table 2.2 and conceptualized below.
Table 2.2

GOVERNMENTAL CAPACITIES AND RESOURCES

[A] PROGRAMMATIC CAPACITY

1. Jurisdictional resources
2. Financial resources
3. Human resources
4. Political resources

[B] BARGAINING CAPACITY

1. Jurisdictional resources
2. Financial resources
3. Human resources
4. Political resources

Four major types of resources are important determinants of both the programmatic and bargaining capacities of the federal and provincial governments. The first are jurisdictional resources; that is, the legal authority (i.e., constitutional or otherwise) that each government has to perform certain roles in a given policy field. The second are financial resources; that is, the amount of financial assets governments have at their disposal to cover the costs incurred in performing certain roles. The third, are human resources; that is the number and equally, if not more, important the quality of political and bureaucratic officials needed to perform certain roles. The fourth are political resources, that is the support that the various governments have both for themselves and for their preferred policy option among the attentive public and the electorate. There are at least two important categories
of political resources, one societal based and the other institutional based. The societal based category of political resources entail the degree of public support that each government has at any given time in the various provinces and the country as a whole for, among other things, performing certain roles in a given policy field. The institutional based category of political resources entails the degree of support that the various governments have to perform certain roles in a given policy field both in their legislature and in their respective party caucuses. Given the trustee, rather than delegate, basis of representation that prevails both in the federal and provincial legislatures, together with the effects of strong party discipline, it cannot be assumed a priori that the level of societal and legislative support will be the same.

The relevance of such resources for determining programmatic capacity of the federal and provincial governments is quite straightforward and needs no additional explanation here. However, a brief explanation is in order regarding their importance as determinants of their respective bargaining capacity. In the intergovernmental bargaining process jurisdictional resources are important in considerations regarding which level of government is constitutionally authorized to perform certain roles, and whether or not one level of government must, and can be authorized to perform a certain role. Such authority is
important in the negotiating process both for those who
possess it and for those who do not. At the very least such
resources make it possible for the government that possesses
them either to threaten or actually take legal action in
pursuit of its preferred policy option.

Similarly, financial resources are likely to be
important in the negotiating process in at least two ways.
First, the amount of financial resources that a government
has may impinge on its decision to engage in negotiations
given the financial costs that will be incurred in doing so.
Second, and more importantly, financial resources can be
used as bargaining chips to entice the other side to accept
a policy option which it otherwise might not.

Human resources are also likely to be important in the
negotiating process in at least two ways. First, the number
of political and bureaucratic officials that a government
has available may well impinge on its decision on whether or
not to engage in negotiations. Second, the number and,
perhaps more importantly, the quality of human resources are
also important factor, during the course of negotiations.
The ability of various governmental officials involved in
the intergovernmental negotiations to utilize various
strategies and tactics effectively may well determine the
extent to which the policy preferences of their respective
governments will prevail. There are a plethora of
strategies and tactics which governments can employ in their
negotiations. The key features of such strategies and tactics have been discussed in various studies of intergovernmental bargaining within the Canadian federal system and will not be reiterated here.  

Finally, political resources are also important determinants of the federal and provincial governments' bargaining capacity. Such resources provide the governments with important clout in their efforts to convince their counterparts to accept their preference regarding which of them should perform certain roles. In Canada, as in other federal systems, "...political support is frequently as important as the possession of constitutional powers in determining the de facto distribution of policy responsibilities..." between the federal and provincial governments.

Estimating the significance of political resources in shaping the policy preferences of each government and ultimately their ability to act upon and realize those preferences is by no means an easy task either for practitioners or analysts. In seeking to determine their importance in a particular policy outcomes, therefore, the following caveat regarding the difficulty in assessing such resources is most apposite:
...resources are subtle and complex.... Resources are rooted in the social context, the issue, the time, and, even more important, the minds of the participants. Not only does the balance of resources vary from issue to issue but also it is continually shifting as the negotiations on each issue progress. Therefore the participants must always be making calculations about their own and others' resources.

It is thus impossible to assess with certainty the resources of the participants in federal-provincial negotiations.

Despite these difficulties, however, an attempt must be made to assess the scope and importance of such resources and the extent to which they shaped the policy preferences of the federal and provincial governments and ultimately the policy outputs in the intergovernmental arena. In doing so it is important to keep in mind the possibility that the government's perceptions regarding their respective political resources and the importance they attach to them in their assessments of various policy options, may be much more significant than the actual or objective amount of such resources.

In sum, there are two major categories of governmental capacities, namely programmatic and bargaining, that can have a significant effect not only in shaping the policy preferences of the federal and provincial governments but, ultimately, also the policy outputs of the intergovernmental arena.
The Operating Environment Of State Actors

To reiterate, the federal and provincial governments operate in dynamic, multi-dimensional and complex environment which produces various factors or forces that impinge both on the dynamics of federal-provincial relations and decisions regarding change to the federal system. Their operating environment consists of two major dimensions, namely the domestic dimension and the international dimension, both of which consist of several overlapping spheres and sub-spheres. The domestic dimension of the federal and provincial governments' operating environment consists of several major spheres. The first is the political sphere. Several factors can emanate from this sphere which might impinge on the governments' goals and on their capacity to realize those goals. The most significant of these are the policy preferences and judgements about actual or proposed policy initiatives of key actors within the political system. This includes the preferences and judgements of those who occupy key positions within the state, other than those occupied by elected and non-elected officials the federal and provincial governments as conceptualized above, and also the preferences of individuals and groups outside the state.

Within the state this includes members of the executive who, although they occupy largely ceremonial roles can at times have a significant effect on the timing of policy,
even if not its content, namely the Governor General and the provincial lieutenant governors. Another major group of state actors whose preferences and judgements can impinge on the federal and provincial governments are members of the judiciary who may be called upon either by the governments themselves or the citizens to rule on the constitutionality of the process and substance of various policy decisions made within the intergovernmental arena.\textsuperscript{33}

Outside the state, there are at least four major sets of actors who constitute significant elements of what might be termed the attentive public.\textsuperscript{34} The first set of actors are political parties. This includes both the government's own parties, as well as the other major parties within the political system at both the federal and provincial levels. All major political parties scrutinize what the governments do within the intergovernmental area. Each of them has reasons for doing so and generally each of them, but particularly the major opposition parties, is constrained by the media to comment and pass judgement on both what governments have done and what they have not done. In some cases even the governments' own parties tend to adopt resolutions from time to time which, although governments are not obliged to adopt, sometimes can be very difficult for them to disregard in their calculations of a desirable and feasible course of action when formulating public policy. The second set of actors of the attentive public
are various pressure groups who are interested in a given policy issue. The third set of actors of the attentive public are members of the media who not only report news but to some extent shape it and in some cases even make it by virtue of their decisions regarding what, when, and how to report. The biases evident both in editorials and media reports are not insignificant factors in the governments' calculation of the advantages and disadvantages of various policy options for their interests. The reaction, real or anticipated, of the various media are uppermost in the minds of policy-makers at all times because they realize that the media not only reflects public opinion, but to a large extent also shapes it. The fourth set of actors of the attentive public are academic analysts whose written and verbal analyses of various policies and policy options which can affect both the understanding of, and reactions to, policy problems by governmental and non-governmental actors.

All of the aforementioned actors both within and outside the state who constitute the attentive public are audiences for governments both in the intragovernmental and intergovernmental arenas. The existence of such audiences can be influential on governments because, as Simeon points out, in making policy decisions the latter:

...must bear in mind other groups--audiences--which form their environment and on which they depend for support....The most important audiences are the governments' respective legislatures and interested pressure
groups. More generally, the electorate may be considered an audience and the actors may be expected to condition their behaviour on what they conceive (rightly or wrongly) to be the 'popular will.'

Such audiences have certain haunting ghostly qualities for governments; they lurk in the minds of governments as they operate both in intragovernmental and intergovernmental fora whenever policy options are assessed and policy decisions are made. The governments are fully aware of those audiences and to some extent, though not always either fully or accurately, also of their policy preferences and possible reactions to a particular policy decision. Moreover, governments also have a sense of the effect, though again not always either fully or accurately, that the preferences and reactions of those audiences will have for their respective capacity to achieve their policy goals.

The second major sphere in the domestic dimension of the federal and provincial governments' operating environment is the social sphere. Social conditions and changes to the same can also constitute key factors in the governments' calculations that shape their policy preferences and their ability to realize their respective policy goals. This includes both the demographic composition of society and also relations between various individuals and groups within society.

The third major sphere in the domestic dimension of the federal and provincial governments' operating environment is
the economic sphere. Economic conditions can also constitute key factors both in the governments' calculations that shape their policy preferences as well as in their capacity to realize their respective policy goals. This includes the general performance of the economy and the distribution of wealth within it.

The fourth major sphere in the domestic dimension of the federal and provincial governments' operating environment is the normative sphere. The norms that prevail within the political system can also constitute key influential factors in the governments' calculations that shape their policy preferences as well as in their capacity to realize their respective policy goals. This includes norms regarding both the broader aspects of governance such as, for example, the scope of governmental activity, the proper relationship between the two orders of government in any given policy field, the proper relationship between governments and those whom they govern, as well as narrower issue of governance and policy-making and implementation such as efficiency and effectiveness.

The foregoing has served to highlight the various major spheres in the domestic dimension of the federal and provincial governments' operating environment and the factors that can emanate from each. Their environment, however, does not end at the national borders. Various factors or forces emanating from various spheres of the
international dimension of their operating environment can also impinge on the calculations that shape their policy preferences and their capacity to achieve their policy goals. 

A complete mapping of the various spheres and sub-spheres of the international dimension of their operating environment is somewhat beyond the scope of this chapter and will not be attempted here. For all intents and purposes of this study it suffices to highlight some of the key factors which might impinge on the aforementioned calculations and capacities.

As in the domestic dimension of their operating environment, there are four major overlapping spheres of the international dimension which can generate factors or forces that might impinge on the governments' policy goals and their ability to achieve those goals. The first is the political sphere. There are at least two major types of factors or forces that emanate from this sphere. The first are obligations that stem from Canada's position within the international system. A notable example of such obligations that is relevant for all intents and purposes of this study is the U.N. Convention on Refugees. As a signatory to that Convention the federal government is obligated to ensure that Canada's refugee determination and settlement process is consistent with its basic principles. Hence, if any one or more of the provinces perform key roles in planning and managing the refugee program, the federal government is
obliged to ensure that the basic tenets of the Convention on refugees are respected. The second set of factors or forces in the political sphere are the views of various actors within the international system, but particularly other countries and international organizations regarding how the federal and provincial governments should conduct themselves within the international political system. A notable example for all intents and purposes of this study are the views of those actors on which level of government should engage in immigration activities in various host countries and which level of government should be responsible for the treatment of immigrants and refugees destined to Canada.

The second major sphere of the international dimension of the federal and provincial governments' operating environment is the economic sphere. Economic trends either globally or in any particular country can impinge on the federal and provincial governments' policy goals and their ability to achieve those goals. For example, again in the case of immigration, the economic conditions in a given country may determine whether or not the federal or provincial government wish to, or the host government would allow them to, recruit immigrants. Although this has always been an important issue in terms of recruiting immigrants, it has become a particularly significant factor since the business immigrant program was developed in Canada.

Insofar as one can speak about an international society
there are also factors that emanate from it which could prove potentially significant for the federal and provincial governments in their calculations which shape their policy preferences as well as their capacity to achieve their policy goals. A case in point in the field of immigration, are the factors generated by wars between and within countries that produce refugees which, in turn, require each of them to take a policy stance on how to deal with the refugee issues. As subsequent chapters in this study reveal, a major debate between the federal and provincial governments regarding their respective roles in this policy field has been who should be responsible both for the refugee determination process and meeting the basic needs of refugees.

Factors emanating from the normative sphere in the international dimension of the federal and provincial governments' environment can also be influential to their ability to formulate, pursue, and achieve their respective policy goals. This includes dominant ideas or norms that prevail in the international community regarding how various classes of immigrants and refugees should be treated as their applications are processed. In the field of immigration and particularly the refugee determination process, for example, this might include ideas regarding fair hearings, efficient processing of applications, access to legal counsel during various judicial and quasi-judicial
proceedings, and humanitarian treatment of those awaiting certain decisions regarding their refugee or immigration status. Any, or all, of these factors could impinge on the federal and provincial governments' calculations regarding the advantages and disadvantages of performing certain roles in the field of immigration and ultimately their decisions about which of them should do so.

Conclusion

To reiterate, the central objective in this chapter has been to develop a model of the determinants of policies developed within the intergovernmental arena. The fundamental premise of this model is that in explaining the determinants of policies developed within the intergovernmental arena the federal and provincial governments must be conceptualized as relatively autonomous actors who have preferences and interests which are not simply reflective of those of societal actors, as well as the capacity to pursue them. The four key propositions of the model were stated in skeletal form earlier in this chapter but, given the foregoing definitions of key concepts in those propositions, now they can be stated in more precise terms as follows. First, policies reflect the policy preferences of at least one senior government within the Canadian federal system. Second, the policy preferences of the federal and provincial governments are a function of
their calculations regarding the effect that various
alternative policy options are likely to have on their
regime and non-regime interests given their assessment both
of their programmatic capacity and also of the significance
of various forces emanating from the political, social, and
economic spheres of their operating environment. Third,
that where the policy preferences of the federal and
provincial governments converge, the policies will reflect
their respective preferences. Fourth, that where the policy
preferences of the federal and provincial governments
diverge, the policies will reflect the preferences of the
government(s) with the bargaining capacity to constrain the
other(s) to accept its(their) preferred policy option(s).
This model will be applied to the analysis of the
determinants of the alignment of roles between the federal
and provincial governments in subsequent chapters.
ENDNOTES


4. For an example of a Marxist analysis that employs such a model see Thomas O. Hueglin, A Political Economy of Federalism: In Search of a New Comparative Perspective With Critical Intent Throughout (Kingston: Institute of Intergovernmental Relations, 1990), 31-39. For an example of non-Marxist analysis that employs such a model see, Kenneth Norrie, Richard Simeon, and Mark Krasnick, Federalism and the Economic Union in Canada (Toronto: University of Toronto Press, 1986).

5. Examples of political culture approaches to the study of Canadian federalism include the following: David Bell and Lorne Tepperman, The Roots of Disunity (Toronto: McClelland and Stewart, 1979); David J. Elkins and Richard Simeon, Small Worlds: Provinces and Parties in Canadian Political Life (Toronto: Methuen, 1980); and Simeon and Robinson, State, Society and the Development of Canadian Federalism.

6. For examples of such Marxist and neo-Marxist models see C.B. MacPherson, Democracy in Alberta: Social Credit and the Party System (Toronto: University of Toronto Press, 1953); John Richards and Larry Pratt, Prairie Capitalism: Power and Influence in the New West (Toronto: McClelland and Stewart, 1979); Garth

7. See, for example, Hugh G. Thorburn, *Interest Groups in the Canadian Federal System* (Toronto: University of Toronto Press, 1985), 60-81. Thorburn provides a succinct overview of other studies that have emphasized the role of pressure groups in changes to the federal system.

8. For a discussion of these state-centric models see Simeon and Robinson, *State, Society and the Development of Canadian Federalism*, 13-14; 16.

9. Examples of studies that have employed an institutional approach are those which have attempted to explain fluctuations from centralization to decentralization in terms of judicial interpretations by the Judicial Committee of the Privy Council and by the Supreme Court. See for example, Alan Cairns, "The Judicial Committee and Its Critics," in Garth Stevenson (ed.), *Federalism in Canada* (McClelland and Stewart, 1989), 81-141; and F.R. Scott, "Centralization and Decentralization in Canadian Federalism," in Stevenson (ed.), *Federalism in Canada*, 51-80; and Bora Laskin, "Peace, Order and Good Government' Re-examined," Stevenson (ed.), *Federalism in Canada*, 18-50. More commonly, the legal-institutional approach is utilized to study the effect of the federal system on the public policy process and policy outputs. See, for example, Richard Simeon, *Federal-Provincial Diplomacy* (Toronto: University of Toronto Press, 1972); Keith Banting, *The Welfare State and Canadian Federalism* (Kingston: McGill-Queen's University Press, 1977); and Pal, *State, Class and Bureaucracy*, 136-168.


11. See, for example, Simeon and Robinson, *State, Society and the Development of Canadian Federalism*, 3-17; Richard Simeon, "We are all Smiley's People: Some Observations on Donald Smiley and the Study of Federalism," in Shugarman and Whitaker (eds.), *Federalism and Political Community*, 418-420; and Norrie, Simeon
and Krasnick, *Federalism and the Economic Union*, 131-132. Such views are echoed in the Canadian public policy literature. See, for example, G. Bruce Doern and Richard W. Phidd, *Canadian Public Policy: Ideas, Structure, Process* (Toronto: Methuen, 1983), 41-43. For a commentary on some scholarly efforts to bridge state and society which he termed "state-society gap filling" see G. Bruce Doern, "Canadian Policy Studies as Art, Craft and Science," [Speaking notes for a Panel Discussion, (Canadian Political Science Association Meetings held in Ottawa at Carleton University June 6, 1993], 10-12.


federal-provincial relations using the policy communities framework see Paul Pross and Susan McCorquodale, Economic Resurgence and the Constitutional Agenda: The Case of the East Coast Fisheries (Kingston: Institute of Intergovernmental Relations, 1987).

17. For an excellent discussion on the dilemmas faced by analysts in finding the right level of analysis to explain the determinants of policy within the federal system see Peter Leslie, Federal State, National Economy (Toronto: University of Toronto Press, 1987), 35-47.


20. Ibid.

21. Ibid.

22. Simeon, "We are all Smiley’s People," 419.

23. Ibid., 419-420.

24. Ibid., 420. For a similar point regarding the need to refine rather than reject and abandon state-centric models see Bakvis and Chandler, "The Future of Federalism," 314.

25. Simeon, "We are all Smiley’s People," 420. Emphasis added.


27. Skocpol, "Bringing the State Back In," 28.

28. Ibid., 28.

29. Ibid., 21.


31. For a discussion of such a neo-institutionalist perspective in the Canadian federalism literature see Smiley, Canada in Question, 5-6; Idem, The Federal Condition In Canada, 9-11. See also Cairns, "The Embedded State," 53-83.
32. Pal, "From Society to State," 19. A similar point is made by Coleman and Skogstad: "The institutional and normative framework in a given polity sets the limits within which state and societal actors take initiatives, defines the extent to which policy planning can be longer term, and circumscribes the degree to which state actors can impose their will." Coleman and Skogstad, "Policy Communities and Policy Networks," 19.

33. Eric Nordlinger, On the Autonomy of the Democratic State (Cambridge: Harvard University Press, 1981), 11. I have added some words to Nordlinger's definition because at least one critic has suggested, unfairly in my view, that his wording was reductionist because it did not include any mention of the institutional and constitutional framework of the state. The addition of my words make explicit what I believe is implicit in Nordlinger's definition. For a criticism of Nordlinger's definition see Smiley, The Federal Condition in Canada, 9.

34. Simeon, "We are all Smiley's people," 419.

35. For an alternative perspective which devotes much more importance to the constraints that institutions place on agents see Stephan Krasner, "Approaches to the State: Alternative Conceptions and Historical Dynamics," Comparative Politics 16:2 (January 1984), 225. According to Krasner: "Actors in the political system, whether individual or groups, are bound within these structures, which limit, even determine, their conceptions of their own interests and their political resources."


37. For discussions of conceptualizing the state as either aggregated or disaggregated see Pal, "From State to Society," 18-19; 26; and William Coleman and Grace Skogstad, "Policy Communities and Policy Networks," in Coleman and Skogstad (eds.), Policy Communities and Public Policy In Canada 15-17.


39. For a discussion on the value of a disaggregated view of the state along sectoral lines see Coleman and Skogstad, "Policy Communities and Public Policy," 16-17; and Skocpol, "Bringing the State Back In," 17-18.

40. For an extensive analysis of the central role of the federal and provincial governments in policy-making within the intergovernmental arena see Richard Simeon, Federal-Provincial Diplomacy (Toronto: University of Toronto Press, 1972). For a discussion and critique of the process of executive federalism see Donald V. Smiley, "An Outsider's Observations of Federal-Provincial Relations among Consenting Adults," in Richard Simeon,
41. For a discussion of the centrality of cabinet members and bureaucrats in policy making within the Canadian political system and the relevance of the 'political administration model' see Michael M. Atkinson and William D. Coleman, "Bureaucrats and Politicians in Canada: An Examination of the Political Administration Model," Comparative Political Studies 18:1 (April 1985), 58-80.

42. For a discussion of the unitary actor and bureaucratic politics models see Richard Schultz, Federalism, Bureaucracy and Public Policy (Montreal: McGill-Queen's University Press, 1980), 2-10; and Simeon, Federal-Provincial Diplomacy, 8; 36-38.

43. See, for example, Simeon, Federal-Provincial Diplomacy, 8; 36-38.

44. Schultz, Federalism, Bureaucracy and Public Policy, 5-10.


47. Skocpol, "Bringing the State Back In," 16.

48. For a distinction between the ability of state actors to formulate and pursue goals and their capacity to realize those goals see Skocpol, "Bringing the State Back In," 9; 15-16.

49. Skocpol, "Bringing the State Back In," 16.


53. It is such a conceptualization of autonomy which distinguishes state-centric theories from socio-centric theories which ascribe a degree of relative autonomy to the state in policy-making. For a discussion of the differences between structuralist Marxists and non-Marxists and their respective notions of state autonomy see Pal, "From Society to State," 22-26; and Stephan D. Krasner, Defending the National Interest (Princeton: Princeton University Press, 1978), 20-30.

55. Skocpol, "Bringing the State Back In," 11.

56. For a discussion on the variability of state autonomy see Skocpol, "Bringing the State Back In," 14; and Coleman and Skogstad, "Policy Communities and Policy Networks," 16.


58. Ibid., 58.


63. The importance of governmental interests in shaping the policy preferences of federal and provincial governments have been underscored by several analysts in the federalism literature. See, for example, Simeon, Federal-Provincial


65. The importance of policy legacies in the Canadian federalism literature is underscored by Cairns, "The Embedded State," 80-81; and also by Bakvis and Chandler, "The Future of Federalism," 311. In the comparative public policy literature it is underscored by Neclo, Modern Social Politics, Chapter 6.


67. The concept 'superordinate interests' is used by Simeon, Federal-Provincial Diplomacy, 15. In Simeon's words: "...goals on specific issues can be seen as intimately bound up with a broader set of overall goals... or 'superordinate' interests."


70. See Simeon, Federal-Provincial Diplomacy, 135; and Smiley, Canada in Question, 147.

71. Such interests are identified by, among others, Simeon, Federal-Provincial Diplomacy, Cairns, "The Governments and Societies of Canadian Federalism," 705; Smiley, Canada in

72. In analyzing federal-provincial relations on income security Keith Banting highlighted two major categories of such governmental interests: economic power and political legitimacy. See Banting, The Welfare State and Canadian Federalism, 116-121.

73. For a discussion of the interest of governments to maximize their financial resources see Simeon, Federal-Provincial Diplomacy, 163-168. For a discussion of the importance of the governments' interest in securing their what they deem to be requisite financial resources and their effect in shaping immigration policy see Alan Simmons and Kieran Reohane, "Canadian Immigration Policy: State Strategies and the Quest for Legitimacy," Canadian Review of Sociology and Anthropology 29:4 (1992), 426; 446-447.

74. These are sometimes referred to as status goals or interests. See, for example, Simeon, Federal-Provincial Diplomacy, 188-189.

75. See Cairns, "The Governments and Societies of Canadian Federalism," 705; and Idem, "The Other Crises of Canadian Federalism," 184. For an analysis of the centrality of such governmental interests in shaping immigration policy see Simmons and Reohane, "Canadian Immigration Policy," 426-428; 444-449.


78. For an excellent discussion the importance of non-material interests of governments see various chapters in Robert Reich (ed.), The Power of Public Ideas (Cambridge: Ballinger Publishing Co., 1988). Within the Canadian federalism literature such interests are noted, for example, by Cairns, "The Governments and Societies of Canadian Federalism," 704-705; and Idem, "The Other...

79. For a discussion of the importance of the governments’ economic development interests in shaping immigration policy see Simmons and Keohane, "Canadian Immigration Policy," 426-428; 444-449.


81. Simeon refers to these as "ideological interests." See Simeon, Federal-Provincial Diplomacy, 168-184.

82. For a discussion on the threats posed to federal political systems by legitimacy crises see Thomas O. Hueglin, "Legitimacy, Democracy and Federalism," in Bakvis and Chandler (eds.), Federalism and the Role of the State, 43-47.

83. The notable example of a state-centric model which gives primacy to the material interests of governments as key determinants of governmental behaviour and public policy is the one proffered by Cairns. See Cairns, "The Governments and Societies of Canadian Federalism," 695-725; and Idem, "The Other Crisis of Canadian Federalism," 175-195. For a commentary on limitations of state-centric models which give primacy to the material interests of the federal and provincial governments see Simeon and Robinson, State, Society and the Development of Canadian Federalism, 13-14.


86. This discussion of governmental resources is influenced by Simeon’s discussion in Federal-Provincial Diplomacy, 6; 201-227.

87. Ibid., 202-204.

88. For a discussion on the importance of strategies and tactics and taxonomies of each see Simeon, Federal-Provincial Diplomacy, 228-255; and Stein, Canadian Constitutional Renewal, 7; 9-10.


92. This conceptualization of the operating environment of the federal and provincial governments was influenced by the conceptualizations of such environments by Simeon, *Federal-Provincial Diplomacy*, 20-42; and G. Bruce Doern and Glen Toner, *The Politics of Energy: The Development and Implementation of the NEP* (Toronto: Methuen, 1985), 11-17.


94. For a conceptualizations of the attentive public see Coleman and Skogstad, "Policy Communities and Networks," 25-26.


100. The importance of the international environment for public policy and public administration decisions is emphasized by analysts of Canadian foreign policy who emphasize the importance of the international political economy. See, for example, Ernie Keenes, "Rearranging the Deck Chairs: A Political Economy Approach to Foreign Policy Management in Canada," *Canadian Public Administration* 55:3 (Autumn 1992), 831-401.
CHAPTER 3

THE ALIGNMENT OF ROLES

Introduction

To reiterate, the central objective of this study is to examine the determinants of asymmetry in the alignment of roles between the federal and Quebec governments on one hand, and that between the former and the other provinces on the other, in the various phases of the immigration process from 1971 to 1991. The central objective in this chapter is to provide an overview of the precise nature and scope of that asymmetry. Its determinants are explored in subsequent chapters.

Before examining the asymmetrical alignment of roles between 1971 and 1991, however, it is useful to provide an overview of the alignment of roles in the pre-1971 era. The overview helps to place the asymmetry of recent decades in its historical context. Among other things, it reveals that such asymmetry was by no means unprecedented because in the pre-1970 era Ontario performed key roles in the field of immigration which generally were not performed by other provinces. More importantly, however, the overview reveals that after nearly a century of being relatively inactive in immigration, between 1971 and 1991 Quebec became the most active province in planning and managing immigration as it performed key roles that were not performed by other provinces.
The Alignment Of Roles: The Pre-1971 Era

Asymmetry in the alignment of roles between the federal and provincial governments in the various phases of the immigration process in by no means recent phenomena. Such asymmetry also existed in the recruitment, selection, and settlement phases of the immigration process in the pre-1970 era. Before discussing the precise nature and scope of asymmetry in those two particular phases of the immigration process, it is useful to trace briefly the evolution of federal-provincial relations in immigration in that era.

During the first century of Confederation the alignment of roles between the federal and provincial governments in the field of immigration became increasingly centralized and symmetrical. The bulk of that centralization and symmetry was achieved within the first two decades of Confederation. Although the Constitution Act, 1867 apportioned the powers between the federal and provincial governments in immigration, it was silent on the alignment of their respective roles. The task of deciding which level of government would perform various roles was left to the federal and provincial governments.

During the first two decades of Confederation decisions regarding the alignment of roles were made by representatives of the federal and provincial governments at a series of multilateral meetings which produced several federal-provincial agreements.¹ Those conferences and the
resulting agreements were very instrumental in shaping the alignment of roles for nearly a century.

The first of those conferences was convened in October 1868, just fourteen months after Confederation, at the insistence of Quebec's Premier Chauveau. At that conference the Quebec Premier demanded and obtained the right for provinces to perform a role in the recruitment of immigrants in Europe. Prior to the conference, he explained that provinces should be given such a role because they knew what type of immigrants they needed and what the immigrants should know about conditions in their respective provinces. Such a role, he argued, could be performed without infringing on the federal government's ability to control the overall nature of the immigration programme. In his words:

As each province must be held to know best its own needs and comparative advantages which it can offer to immigrants from other countries, it is highly important that each should have its own agent for this service; accredited certainly by the federal government; perhaps subject to confirmation, and to instructions approved by it. This way, each [province] will be able to exercise its initiative and the federal government will have sufficient means to control it all from the point of view of the general interests of the Confederation.¹

The 1868 conference produced the first federal-provincial agreement on immigration. In that agreement ten articles of cooperation were established; the first five
stipulated the federal government's undertakings, and the last five stipulated the provinces' undertakings. The articles reflected the divisions of functions proposed by Quebec's Premier Chauveau. 3

Under the agreement the federal government assumed primary responsibility for determining the volume of immigration as well as recruiting, selecting, admitting, and naturalizing immigrants. For their part, the provinces could, if they wished, participate in the recruitment and settlement of immigrants. For settlement purposes section 6 of the agreement stipulated that the provincial governments would establish offices within their respective provinces for the reception of immigrants. For recruitment purposes section 7 of the agreement stipulated that they could appoint recruitment agents in Europe or wherever else they deemed proper, subject to federal accreditation of those agents. To facilitate the recruitment of immigrants both by federal and provincial agents, the provinces could provide information on the economic and living conditions within their provinces. In subsequent conferences the precise form that such provincial publicity schemes would take was clarified. As well, at those conferences provinces were encouraged to advise the federal government of the volume of immigrants they needed. Nevertheless, the federal government would ultimately decide on the number of immigrants that would be destined to the various provinces.
Nearly a century later federal-provincial consultation on immigration levels would become a statutory requirement under the Immigration Act, 1978.

The extensive role in recruitment which provinces had been given under the 1868 agreement was significantly delimited by an amendment to that agreement made at a federal-provincial conference in 1874. At that conference the federal government explained that the recruitment activities of the various provinces in Europe had proved to be controversial, costly, and counterproductive. Evidently, according to a report of that conference, the provinces agreed with the federal government's assessment of the problems:

It was generally admitted..., that separate and individual action of the Provinces in promoting immigration, by means of agents in the United Kingdom and the European Continent, led not only to waste of strength and expense and divided counsels, but in some cases to actual conflicts, which had an injuriously prejudicial effect on the minds of intending emigrants. It was, therefore, thought advisable to vest in the Minister of Agriculture, for a term of years, the duty of promoting immigration to the Provinces from abroad, which had hitherto been exercised individually by the provinces, under the provisions of the Act of Confederation."

The 1874 amendment to the 1868 agreement stipulated that provincial governments desist from establishing their own separate recruitment agencies in the United Kingdom and the rest of Europe. Instead they would be authorized to place
their immigration agents in the federal office in London under the auspices of the federal Agent-General. The salaries of the provincial officers along with office expenses were to be paid by the provinces. The arrangement was to last for five years, and continue for a further term of five years, unless notice was given to discontinue it during the first term. The 1874 agreement was never terminated officially, it simply fell into desuetude after the federal government tried to constrain the provinces to pay their rent for the use of office space in the federal government’s mission in London. Evidently as of 1892 none of the provinces had paid any rent. Their failure to do so constituted the beginning of a tacit understanding that the federal government would perform the key roles in planning and managing immigration destined to each province and assume the bulk of financial responsibility for the same.

The only major challenges to that understanding until the early-sixties came from the governments of British Columbia both prior to and shortly after the turn of the century. Various governments in that province enacted legislation authorizing their officials to restrict oriental immigration to that province. Those particular challenges were resisted by the federal government on the grounds that they were ultra vires because they contravened the paramountcy provision in section 95 and exclusive federal jurisdiction over control of aliens under section 91(25).
The federal government's position was supported by judicial decisions rendered in constitutional challenges initiated by persons of oriental origin. In two such cases (i.e., Nakane and Okazake case and in the Re Narain Singh et al. case) British Columbia's statutes were deemed ultra vires by the courts. In one case the provincial statute in question was deemed ultra vires because it contravened the spirit of a treaty between the federal government and Japan, and in the other case it was deemed ultra vires because it was not consonant with existing federal legislation and regulations on the selection and admission of immigrants into the country. Those decisions not only rendered that province's legislation invalid but they consolidated the federal government's primacy in planning and managing immigration both in case law and, equally important, in the minds of successive federal and provincial governments. The dye for the alignment of roles in planning and managing immigration had been cast. Nearly seven decades passed before any province sought to modify it in a significant fashion.

During those decades both planning and managing of immigration were highly centralized activities. Successive federal governments performed most of the key roles in the levels setting, recruitment, selection, admission, and settlement phases of the immigration process. The only phases in which the provinces performed some key roles were
recruitment, selection, and settlement. Provincial involvement in those three phases of the immigration process, however, was by no means uniform either across or even within provinces over time. Consequently an asymmetrical alignment of roles persisted for much of that era except during World War I, the Depression, and World War II when none of the provinces was active in recruitment, selection and settlement activities.

The asymmetry in the recruitment phase stemmed from differences in the extent of Ontario's involvement as compared to other provinces from approximately the turn of the century until 1970. For the greater part of those seven decades Ontario conducted an active recruitment program out of its provincial offices in London and Glasgow which surpassed by far the limited and sporadic recruitment activities of other provinces. Whereas the other provinces engaged in promotional and recruitment activities on a very sporadic and limited basis, Ontario maintained a recruitment capacity abroad on a permanent basis except during the two world wars and the depression of the 1930s.

The asymmetry in the selection phase also stemmed from Ontario's extensive participation in the selection process compared to other provinces. Ontario's involvement in the selection process was somewhat indirect, but nonetheless significant. Insofar as federal officials issued visas on a more or less automatic basis to candidates referred to them
by Ontario's agents provided they met federal admission criteria regarding matters such as health and moral turpitude, Ontario's official were in effect performing a role in the selection process that was not significantly different than that performed by Quebec officials in the post-1970 era.

On at least two occasions the Ontario government performed an even more definitive or determinative role in the selection process. In both instances Ontario officials circumvented the federal immigrant selection and admission process without the consent of their federal counterparts. In 1911 Ontario agents issued British farm labourers landing cards without getting prior approval from federal immigration officials. Although the federal government had the jurisdictional authority to repatriate those immigrants, it did not do so. Instead, it issued those immigrants federal visas. The decision to do so was based on the federal government's desire to avoid an intensification of the dispute with Ontario's Premier Oliver Mowat, a renowned provincial rights activist, who had been complaining for some time that the federal immigration program concentrated too much on the needs of Western Canada and not enough on those of his province.

The incident was repeated in 1947 when the Ontario government, under the stewardship of Premier George Drew, airlifted nearly ten thousand British immigrants to Canada,
despite requests by federal officials that it not do so until federal officials had screened all the applicants and issued them visas.\textsuperscript{10} After some intense negotiations the federal government again decided to grant visas to that group. Apparently, federal officials concluded that this was a more practical option than to refuse them visas and repatriate them. In issuing the visas the federal government informed the Ontario government that in the future it should refrain from transporting immigrants who had not been granted visas by its officials abroad. Evidently the Ontario government heeded the request and to date there has not been a repetition of such an incident.

After that particular incident the Ontario government reduced its involvement in general recruitment activities and concentrated instead on assisting Ontario employers to recruit foreign workers. For that purpose in 1951 it established the Industrial Placement Plan which was later renamed the Selective Placement Service Program.\textsuperscript{11} In the early-seventies the Ontario government decided to terminate its recruitment activities abroad even under the Selective Placement Service Program. Consequently, in subsequent years Ontario officials only performed a liaison role between the employers who sought foreign workers and federal officials; responsibility for the actual recruitment abroad of workers sought by Ontario employers was left to the federal government. During the 1950s and 1960s some of the
other provinces also performed a limited role in the recruitment phase. They followed Ontario’s lead in conducting some limited recruitment activities largely on a sporadic and ad hoc basis to find immigrants with skills that were needed in their respective provinces.12

During the pre-1970 era asymmetry also prevailed in the alignment of roles in the settlement phase. Such asymmetry was evident in the nature and scope of provincial involvement in the settlement of immigrants both in settlement programs which they planned, delivered and funded on their own and also in various settlement programs which entailed federal-provincial cost-sharing agreements with the federal government. Differences in their involvement in federal-provincial cost-sharing agreements is evident in settlement arrangements throughout the pre-1970 era. Such asymmetry was evident, for example, in a series of settlement related agreements concluded during the 1920s. This included various cost-sharing agreements developed by the federal government to assist immigrants with their transportation and land settlement costs. Generally Quebec, Alberta and Saskatchewan were unwilling to participate in such programs. Whereas Quebec refused to participate because the settlement schemes were designed primarily to facilitate British immigration, Alberta and Saskatchewan refused to participate because they felt that the federal government should assume the bulk of settlement costs
because they felt that they were financially disadvantaged by the fact that they had still not received control over their natural resources.  

Asymmetry was also evident in a series of cost-sharing agreements for meeting the settlement needs of immigrants which were concluded between the federal government and most, though by no means all of the provinces, between 1950 and 1970. Much of that asymmetry resulted from the refusal of the Quebec governments either to sign some of those agreements, or to sign several years after most or all other provinces had done so. This included the federal-provincial bilateral agreements on hospitalization services and welfare benefits for immigrants. The hospitalization agreements, under which the federal and provincial governments were to share hospitalization costs for newly arrived immigrants, were signed by Ontario in 1952 and several other provinces shortly thereafter, but were never signed by Quebec, New Brunswick and Prince Edward Island. Similarly, the welfare agreements under which the federal and provincial governments were to share the welfare costs for newly arrived immigrants, were signed by all other provinces in 1959 but were never signed by Quebec and Manitoba before they were terminated in the mid-sixties. The Citizenship and Language Instruction agreements which were signed by all other provinces in 1954, were not signed by Quebec until 1969. Similarly, the Language Textbook
agreements under which the federal government assumed responsibility for the full cost of the books required for citizenship and language instruction classes were signed by other provinces in 1963, but were not signed by Quebec until 1970 and by British Columbia until 1983.

In sum, this overview of the alignment of roles during the pre-1970 era reveals that asymmetry prevailed in the recruitment, selection and settlement phases. The asymmetry in the recruitment and selection phases stemmed largely from the discrepancy in the extent of involvement by Ontario as compared to that of the other provinces during most, though by no means all of that era. The asymmetry in the settlement phase stemmed largely from the unwillingness of most Quebec governments to enter into federal-provincial cost shared agreements.

By 1970, however, as a result of the Ontario government's decision to discontinue its active involvement in the recruitment and selection of immigrants and the decision of the Quebec government to assume a more active role in the settlement of immigrants, the alignment of roles between federal and each of the provincial governments was essentially symmetrical. The symmetry did not last long. A new pattern of asymmetry began to emerge as Quebec started performing some key roles in various phases of the immigration process that would not be performed by the other provinces.
Before discussing those asymmetries it is important to note another important feature of the alignment of roles in the field of immigration, namely the highly centralized pattern. During the pre-1970 the alignment of roles between the federal and provincial governments became highly centralized. As noted earlier, with the exception of Ontario, all other provinces had essentially vacated the field by World War I. In subsequent decades their involvement was limited to the settlement phase where they participated in some federally initiated cost-sharing schemes, and to an even lesser extent to the recruitment phase where it was limited to searching for a few immigrants whose skills were in short supply in their respective provinces. Thus, by 1970 the federal government had assumed full control of planning and managing immigration largely through a process of voluntary vacancy on the part of the provinces. According to Hawkins this is precisely how successive federal governments and their officials wanted to manage immigration:

...to think in terms of cooperative action and collective responsibility, at that time, was not part of the philosophy or style of the...management group...in Ottawa.... Their style of operation, and the one to which their whole experience and training had been directed, was that of an intelligent and sophisticated management of affairs from the centre.

The centralization in planning and managing immigration evident by 1970, however, did not result only from the
preferences of successive federal governments and their officials. To a large extent, according to Hawkins, it had occurred as a result of provincial disinterest. She cited several factors in explaining that lack of interest. She suggested that there was a shared view among provincial governments and their officials that since immigration was a tool of nation-building and one that was inextricably linked to external relations and should therefore be left in the hands of the federal government. The effect of that shared view was compounded by their shared view that planning and managing immigration could be potentially costly both financially and politically and therefore better left to the federal government. An equally significant factor for the lack of provincial interest in planning and managing immigration, according to Hawkins, was a shared view among wealthier provinces that they did not need to get involved because planning and management of immigration by the federal government was serving relatively well, while the poorer provinces could not envision the economic benefits of a well managed immigration program for their regions. The notable exception, of course, regardless of which of those two categories it is placed, was Quebec. Between the turn of the century and 1960 successive Quebec provincial governments had viewed immigration as a threat to the survival of the francophone catholic community in that province, and preferred to use proactive natalist policies
rather than immigration, regardless of whether it was managed by Ottawa or Quebec City, as the means to accomplish the social and economic development objectives of that province. Hawkins concluded that it was not until some of the provinces began to see the importance of immigration as an indispensable tool of manpower policy in the mid 1960s that some of the provinces began to demonstrate a significant interest in immigration and began to call for increased federal-provincial consultation and collaboration.\(^{19}\)

**The Alignment of Roles: The Post-1971 Era**

Despite the asymmetry which had prevailed during most of the pre-1971 era, by January 1971 the alignment of roles between Canada and all of the provinces was essentially symmetrical in all phases of the immigration process. The extensive degree of symmetry that prevailed in January of 1971 stands in stark contrast to the extensive degree of asymmetry that prevailed in December 1991. That asymmetry was largely the product of the key roles that Quebec was performing in various phases of the immigration process that were not being performed by other provinces. The objective in the remainder of this chapter is to highlight the nature, scope and duration of asymmetry in each phase of the immigration process.

The following overview reveals that such asymmetry
existed in all phases except one, namely admission. It also reveals that asymmetry is developed in an incremental and piecemeal fashion at various junctures during that era as various federal and Quebec governments entered into bilateral agreements on which one of them should perform various roles in various phases of the immigration process.

To facilitate the analysis in this chapter as well as in subsequent chapters it is useful to define some concepts which are essential for understanding the alignment of roles. First, in order to facilitate the discussion on the nature of the roles performed by the federal and provincial governments in the field of immigration, it is useful to make a distinction between three types of roles: determinative, co-determinative, and consultative. Determinative roles refers to cases where a government has exclusive authority to make decisions in planning and managing certain aspects of the immigration process. Co-determinative roles refers to cases where authority to make decisions in planning and managing certain aspects of the immigration process is shared by two or more governments even though in cases of disagreement one of them may have ultimate say. Consultative roles refers to cases where a government does not have any authority to make decisions in planning and managing immigration; instead it can only provide its views or advice on such matters to the government that is authorized to make the decisions.
Second, a distinction between two types of vetoes that either level of government may be able to exercise in decisions regarding the selection of various classes and categories of applicants wishing to enter Canada either on a temporary or permanent basis. A 'negative veto' refers to the authority of one level of government to block the selection of a candidate even if the other level of government supports that candidacy. A 'positive veto' refers to the authority for one government to select an applicant despite opposition from the other government. 

Third, a distinction needs to be made between symmetry or asymmetry at the *de facto* level and at the *de jure* level. Symmetry at the *de facto* level refers to a situation in which either all or none of the provinces perform a key role in the various phases of the immigration process. Asymmetry at the *de facto* level refers to a situation in which one or more, but not all, of the provinces performs certain roles, irrespective of whether any or all of them are formally authorized by the constitution or by a federal-provincial agreement to do so. Symmetry at the *de jure* level refers to a situation in which either none or all of the provinces are authorized to perform a certain role either by the constitution or by a binding federal-provincial agreement. Asymmetry at the *de jure* level refers to a situation in which one or more, but not all, of the provincial governments, is formally authorized to perform a role either
by the constitution or a binding federal-provincial agreement. In order to distinguish between symmetry or asymmetry that exists by virtue of provisions in the constitution and that which exists by virtue of provisions in formal written agreements, the terms 'constitutionally-based' \textit{de jure} level and 'agreement-based' \textit{de jure} level will be utilized.

\textbf{Levels Setting}

From 1971 until 1990 the alignment of roles was essentially symmetrical at both the 'agreement based' \textit{de jure} level and at the \textit{de facto} level. None of the federal-provincial agreements signed during that period authorized any of the provinces to perform a key determinative or co-determinative role in setting immigration level. At most some of the agreements indicated that the federal government would consult the provinces in such matters.

From 1971 until 1990 the alignment of roles was also relatively symmetrical at the \textit{de facto} level. In keeping with a requirement in section 7 of the Immigration Act of 1976, the federal government established a consultative process to solicit the views of the various provinces regarding the level of immigration to their respective provinces and to the country as a whole.\textsuperscript{21} Although all provinces could participate in the levels setting exercise, the extent to which they did so varied. Even among the
provinces that participated, however, there were significant
differences in terms of detail that they provided in their
respective submissions regarding the volume and nature of
immigration that they recommended both for their respective
provinces and the country as a whole. Without exception the
most detailed submissions from the provinces throughout that
era were made by the Quebec governments.

In 1991, however, asymmetry emerged both at the
‘agreement based’ de jure level and the de facto level.
Under the 1991 Canada-Quebec agreement that came into force
in April of that year, Quebec was authorized to determine
the precise proportion of immigrants that it would receive
annually within a fixed range. More specifically the
agreement guaranteed Quebec a percentage of total
immigration that is proportionate to its percentage of the
Canadian population, with "the right to exceed that number
by five percent for demographic reasons."22 To date none
of the other provinces has been authorized to determine the
proportion of immigrants that will be destined to its
territory. The other provinces are only authorized to
express their preferences regarding the volume and
composition of immigrants and refugees destined to their
respective provinces as part of the annual immigration
levels consultation process, but the federal government is
not obliged to provide them with what they deem to be the
appropriate proportion of immigrants for their particular
province. It must be noted that despite this asymmetry may
be more significant at the 'agreement based' de jure level
than at the de facto level. There is a tacit understanding
that the proportion of total immigration requested by Quebec
constitutes a target which the federal government will
attempt to meet, rather than a guarantee with either
positive or negative sanctions applied for compliance or
non-compliance. Nevertheless, asymmetry existed at the
'agreement based' de jure level asymmetry because Quebec was
the only province authorized to perform such a role.

Recruitment

The alignment of roles in the recruitment phase was
asymmetrical both at the 'agreement based' de jure level and
at the de facto level from at least between 1975 to 1991.
At the 'agreement based' de jure level Quebec was the only
province that was formally authorized to perform key roles
in the recruitment phase of the immigration process. Its
authorization to do so was contained in each of the four
major bilateral agreements, but particularly the latter
three, that were concluded between Canada and Quebec.

Arguably, the asymmetry in the recruitment phase
emerged in 1971, albeit in a relatively limited fashion,
with the signing of the Lang-Cloutier agreement. The
agreement authorized Quebec to place its own immigration
officers on a permanent basis in five federal offices abroad
(i.e., Athens, Beirut, Brussels, Lisbon, and Rome) to orient applicants that had been deemed admissible into that particular province by federal officials about the living and working conditions therein, or applicants that indicated they wanted information on Quebec before applying for an immigration visa to that province. The 1971 agreement stipulated, however, that such officers were to limit their role to orientation of such applicants, and were not to engage in recruitment activities either outside or inside the federal immigration offices until the federal officials had deemed applicants admissible to that province. Moreover, applicants were not obliged to meet with Quebec's orientation officers, federal officials merely recommended that they might wish to do so. Hence, it is only insofar as during the course of the orientation sessions both with applicants that had been deemed admissible and prospective applicants who wanted information on Quebec before filing an application, that Quebec's officers could either encourage or discourage them to immigrate to Quebec and were therefore, in essence, performing a very limited recruitment function per se.

The regular and normal role of an Orientation officer of the Quebec Department of Immigration is to provide further information beyond that supplied by the Federal party on living and working conditions in Quebec to applicants destined to that province; referrals of the applicants with their applications will take place at the interview after they have been declared
admissible by a visa officer and the applicants have then agreed to a suggested meeting with the representative of the Quebec party.\textsuperscript{23}

Whereas the foregoing section of the agreement stipulated that the Quebec officials were to provide information to candidates after they had been deemed admissible by the federal officials, a subsequent section stipulated that Quebec officials could exercise their judgement on whether they would meet with candidates who sought their assistance prior to being deemed admissible. Furthermore, that section stipulated that the Quebec officers could express their opinion of such candidates in writing to the federal officers.

The Quebec Orientation officer shall not act as a recruitment officer. He may, however, receive directly and at his discretion any person who seeks him out, and if he deems it appropriate, subsequently indicate in writing his opinion regarding a candidate, to the visa officer. In cases which, prima facie, appear valid to him, the Quebec Orientation officer may give his visitor the required application form for admission.\textsuperscript{24}

The scope of the asymmetry in the recruitment phase was increased in 1975 as a result of several provisions in the Andras-Bienvenue agreement that authorized Quebec's immigration officers, not only to engage in orientation activities but to undertake full fledged recruitment activities. In other words, Quebec's immigration officers were allowed to undertake extensive promotional recruitment
activities in the form of advertising and counselling designed to attract immigrants to that province. Quebec’s capacity to engage in recruitment activities was significantly broadened under the 1975 agreement by virtue of section 2(b) which authorized it to place its immigration officers in a Canadian diplomatic or consular mission and if that was not possible either in its own provincial offices or "...elsewhere in cities a Canadian immigration capacity existed" anywhere in the world.\textsuperscript{23}

Quebec’s authority to engage in recruitment activities abroad as stipulated in the 1975 agreement was confirmed in the 1978 and 1991 agreements without any significant changes. As of 1991 none of the other provinces had been authorized to perform comparable roles in the recruitment phase of the immigration process. Hence, at least at the ‘agreement based’ \textit{de jure} level asymmetry persisted throughout that era.

The asymmetry that persisted at the ‘agreement based’ \textit{de jure} level between 1971 and 1991 in the recruitment phase also persisted at the \textit{de facto} level, albeit in a very slightly less pronounced fashion. Throughout that era, but particularly after 1975, Quebec posted immigration officers in various countries primarily for the purpose of recruiting immigrants who were considered suitable for immigration to Quebec. By 1991 Quebec had placed its own immigration officers in thirteen cities abroad to undertake, among other
things, recruitment activities. Such officers were placed either in Quebec Houses as was the case in Paris, Brussels, London, Port-Au-Prince, Mexico City, Hong Kong, Boston, and New York, or in federal offices as was the case in Rome, Lisbon, Damascus, Buenos Aires, and Bangkok. By contrast, the other provinces were relatively inactive in the recruitment phase of the immigration process during this era. Insofar as any of them did engage in recruitment activities abroad they did so in a much more limited fashion than Quebec as they confined their recruitment activities largely to enticing business class immigrants to immigrate to their respective provinces. Although the differences between Quebec and these provinces were most pronounced, some minor differences also existed among the other provinces. The most active provinces in this particular activity tended to be those that also had the largest number of trade offices abroad, namely Ontario, British Columbia, and Alberta.

**Selection**

In the selection phase of the immigration phase asymmetry at both the 'agreement based' de jure level and the de facto level existed, to a varying extent, from 1971 to 1991. Such asymmetry first emerged, albeit to a very limited and relatively insignificant extent, in 1971 when Quebec officials were granted a minor consultative role in
the selection of applicants destined to Quebec. Under the 1971 agreement, Quebec's orientation officers that were stationed in the five federal offices specified in that agreement (i.e., Athens, Beirut, Brussels, Lisbon, and Rome) could offer a written opinion to their federal counterparts on the suitability of actual or prospective applicants who approached them either on their own or were referred to them by federal officials. The agreement explicitly stated, however, that their views would not necessarily influence the federal officers' decisions regarding either the selection or the issuance of a visa to prospective candidates because all such decisions were to be made "...in light of the Canadian Immigration laws, regulation and criteria."

The asymmetry that emerged in the selection phase as a result of the limited consultative role that Quebec officials were authorized to perform under the Lang-Cloutier agreement of 1971 was increased as a result of a slight broadening of that particular role under the Andras-Bienvenue agreement of 1975. Under the latter agreement Quebec's officers were authorized to review and comment on any applications for permanent resident visas from candidates destined to Quebec, and not merely those of applicants that either approached them or were referred to them by federal officials as had been the case under the 1971 agreement. Their role in the selection of immigrants
was outlined in Section 6 of the 1975 agreement and elaborated in Section 2 of Addendum 1. Section 6 stipulated that Quebec officials would be authorized to review and comment on all applications for permanent resident visas "...from candidates destined to Quebec or who, in the opinion of the Canadian official, are apt to settle there." The agreement added that the Canadian official would take into consideration the opinion of Quebec officials before making a final decision to accept or reject such applicants, and also that in cases where the opinion of the Quebec and federal officers differs on the suitability of a candidate, consultations would take place. 27 Nevertheless, like the 1971 agreement, the 1975 agreement clearly stipulated that "...the final decision on the selection of an immigrant must be made by a Canada Immigration officer." 28

The scope of asymmetry in the selection phase was increased significantly in 1978 with the signing of the bilateral Canada-Quebec immigration agreement known as the Cullen-Couture agreement. Under that agreement Quebec was given key determinative and co-determinative roles in the selection of all classes of immigrants, except family class, applying from abroad, as well as in decisions on whether to issue visas to various classes of visitors. 29

In the selection of assisted relatives the 1978 agreement authorized Quebec to exercise a positive veto, but not a negative veto. In other words, the federal government
was obliged to grant a visa to any applicants in that class who met that province's selection standards. Only if they did not meet the federal admission standards regarding such matters as health and criminality could the federal government refuse to issue such an applicant a visa. In the selection of all other independent immigrants Quebec had both a positive and a negative veto. Hence, the federal government was obliged to grant a visa to applicants destined to Quebec who met that province's standards and not to grant one to those who did not. Quebec also had a veto in the selection of refugees who applied from abroad. In the case of refugee applicants with relatives in Quebec, as in the case of assisted relatives, Quebec had only a positive veto. In the case of applicants without relatives in that province, however, it had both a negative and a positive veto. Until 1985 none of the other provinces were granted either a positive or a negative veto in the selection of any of the aforementioned classes or categories of immigrants. In November of that year, however, Alberta was given a positive veto in the selection of two categories of the independent class, namely entrepreneurs and self-employed persons. Unlike Quebec, however, Alberta did not have a negative veto pursuant to its agreement and, therefore, it could not block the selection of candidates destined to that province who met federal selection
criteria. The role of other provinces was even more limited than Alberta's in the selection of such immigrants; they only had a consultative role. They could evaluate business plans submitted by such applicants and make a recommendation to their federal counterparts on whether to issue a visa.  

Although in practice federal officials attached considerable importance to the recommendation of their provincial counterparts in these provinces in making such decisions, they were not obliged to comply with the recommendation as they had to pursuant to the Alberta and Quebec agreements.  

The Canada-Quebec agreement of 1978 also authorized that province to perform a key role in the selection of 'visitors' (i.e., temporary workers, students, and persons seeking medical treatment). The agreement stipulated that no visas would be issued to the aforementioned categories of visitors without Quebec's prior consent. As of 1991 none of the other provinces had been authorized to veto the issuance of a visa to temporary workers. Some of the agreements signed by the other provinces merely gave them a consultative role in planning the temporary worker movement into their respective territory. In the case of decisions to issue visas to students and persons seeking medical treatment destined to their respective territory, however, most provinces performed the same role as Quebec. The reason for this is that since the mid-seventies the
federal government had developed a practice whereby it would consult the various provinces and generally would not issue a visa if the provincial governments did not consent to it either explicitly or at least implicitly. In this particular instance, therefore, there is an element of symmetry at the de facto level despite the fact that there is asymmetry at the 'agreement based' de jure level.

Another element of asymmetry that emerged in 1978 is the result of a provision in the Cullen-Couture agreement that the Quebec government to establish, apply, and enforce provincial standards for residents in that province wishing to assist their relatives to immigrate to that province. As of 1991 the only province which was authorized to establish such standards was Newfoundland pursuant to its 1978 immigration agreement. Unlike Quebec, however, Newfoundland's agreement did not stipulate that the provincial government was authorized either to apply and enforce such standards or to ensure that sponsors honoured their obligations. The only other provinces whose agreements contained a reference to standards for sponsors were those of Prince Edward Island, New Brunswick and Alberta. Those agreements, however, merely authorized those provinces to participate in establishing federal criteria for sponsors in their respective provinces.

The asymmetry in the selection phase of the immigration process was increased even further when the 1991 Canada-
Quebec agreement came into force. That agreement expanded Quebec's authority to perform four key roles in the selection phase of the immigration process which at the time of writing other provinces were still neither authorized to perform nor performing.

First, the 1991 agreement expanded Quebec's authority in the selection of independent immigrants to include those applying for a permanent resident visa from within Canada. The 1991 agreement, unlike the 1978 agreement, authorized Quebec to select applicants whom federal officials authorized to apply from within Canada. The only cases for which Quebec's consent was not required in the selection process is for persons who are recognized as refugees by the federal government. To date none of the other provinces have been authorized to perform a key role in the selection of any persons applying for permanent resident status from within Canada.

Second, the 1991 agreement also authorized the Quebec government to perform a key role in the selection of investors which at the time of writing no other province is either authorized to perform or performs. More specifically, it granted Quebec the authority to establish its own selection criteria and to exercise both a positive and negative veto in the selection of such immigrants. As shall be explained in Chapter 5, the provisions in the 1991 agreement regarding the role of the federal and provincial
governments largely reflected the alignment of roles which was outlined in a Canada-Quebec letter of understanding on that issue signed in 1990.44

Third, the 1991 agreement also increases the scope of asymmetry in the selection process at the 'agreement based' de jure level by authorizing Quebec to perform a key role in applying federally established selection criteria to family class members. More specifically that agreement, unlike the 1978 Canada-Quebec agreement, authorized Quebec to apply selection criteria established by the federal government in the selection of family class immigrants destined to that province. Section 14 of the agreement stipulated that:

Canada has sole responsibility for the establishment of selection criteria for family class immigrants and Quebec shall be responsible for the application of those criteria, if any, with respect to such immigrants destined to Quebec.45

This is an interesting provision because currently there is no federal selection criteria for family class members comparable to the point system used for selecting independent immigrants; the former merely need to meet the basic health and security requirements established by the federal government.46 This provision suggests that both the federal and Quebec governments envisioned a time when federal selection criteria for family members might be established. It remains to be seen whether the federal government, either on its own initiative or at the behest of the Quebec government, will establish such criteria in the
future. For the time being, however, it results in
asymmetry at the 'agreement based' de jure level but
symmetry at the de facto level.

Fourth, the 1991 agreement also increased the scope of
asymmetry in the selection phase of the immigration process
insofar as it authorized Quebec to apply both its own
selection criteria and the federal government's criteria, if
any exists, in the selection of assisted relatives seeking
permanent resident status in Quebec. Section 15 of the
agreement stipulated that:

...Canada and Quebec may each establish
their own criteria for the selection of
immigrants in the assisted relative
class and Quebec shall be responsible
for the application of those criteria,
with respect to such immigrants destined
to Quebec."

To date, no other province has been authorized either to
establish its own criteria for the selection of assisted
relatives or to be responsible for the application of
federal criteria in the selection of applicants that fall
within that class.

Admission

The alignment of roles between 1971 and 1991 was,
symmetrical both at the de jure and at the de facto level.
No province is authorized to perform a key role in this
particular phase. Once an applicant is selected as a
candidate for a visa, there are two key tests or screenings
which that person must pass before the visa will be issued, namely a health and security screening. During this era the federal government retained full control of this authority; it was responsible for the health and security screening systems and for making judgements on whether or not to issue visas based on those screenings.

Settlement

Asymmetry in the alignment of roles in the settlement phase first emerged in 1978 with respect to federal and provincial responsibility for indigent immigrants. Whereas under the 1978 Canada-Quebec agreement that province was charged with the responsibility for providing assistance to such immigrants from the time of arrival until they qualified for provincial assistance, in all other provinces the federal government assumed such responsibility for the first year until the immigrants qualified for social assistance under the provincial plans.48

In 1991 the scope of asymmetry in the settlement phase was significantly increased as a result of provisions in the 1991 agreement that authorized Quebec to supplant the federal government in planning and managing all reception and integration services within that province, and with compensation for doing so.49 The terms and conditions of that supplantation are outlined in sections 24 to 27 of the 1991 agreement:
24. Canada undertakes to withdraw from the services to be provided by Quebec for the reception and the linguistic and cultural integration of permanent residents in Quebec.

25. Canada undertakes to withdraw from specialized economic integration services to be provided by Quebec to permanent residents in Quebec.

26. Canada shall provide reasonable compensation for the services referred to in sections 24 and 25 provided by Quebec, if:
(a) those services, when considered in their entirety, correspond to the services offered by Canada in the rest of the country;
(b) the services provided by Quebec are offered without discrimination to any permanent resident of Quebec, whether or not that permanent resident has been selected by Quebec.

27. The obligation to withdraw with compensation contemplated by section 25 does not apply to economic integration services provided by Canada on an equal basis to all residents of the country.

To date none of the other provinces has been authorized to supplant the federal government in planning and managing such services either with or without compensation. The differences between Quebec and the other provinces in this respect is evident in the alignment of roles between Canada and Alberta under the 1985 agreement. Section VII of Alberta's 1985 agreement merely provided for federal-provincial collaboration in developing and implementing a plan which delineated "the responsibilities of the federal and provincial governments with respect to addressing the settlement and adaptation needs of permanent residents"
including the provision of basic support to indigent permanent residents" in that province, facilitated "meaningful integrated federal and provincial planning and evaluation activities," and rationalized "the administrative and funding arrangements" that both governments had with voluntary organizations involved in settlement.\textsuperscript{50}

Conclusion

The evidence presented in this chapter reveals that what began as a relatively symmetrical alignment of roles in all phases of the immigration process in January of 1971, had become an asymmetrical alignment of roles in all phases of the immigration process, except admission, by December of 1991. The shift from symmetry to asymmetry was the result of Quebec governments performing roles that were not performed by their counterparts in other provinces either for part or all of that era. Although some asymmetry existed in the precise alignment of roles between Canada and the other provinces, it was relatively small and insignificant compared to the asymmetry between Quebec and the other nine provinces. The question that emerges here but is addressed in subsequent chapters of this dissertation is: What were the determinants of the asymmetrical alignment of roles in the various phases of the immigration process during that era?
ENDNOTES

1. The information on these conferences is drawn from a series titled: "Extract From The Report of the Minister of Agriculture" found in PAC RG 76, Vol. 625, File 951760, Pt. 1, Reel C-10441; and also from Garth Stevenson, "The Origins of Cooperative Federalism," in David P. Shugarman and Reg Whitaker (eds.), Federalism and Political Community (Scarborough: Broadview Press, 1989), 7-31.

2. Quoted in Gordon H. Skilling, Canadian Representation Abroad (Toronto, 1945), 12; and also Robert Vineberg, "Federal-Provincial Relations in Immigration," Canadian Public Administration 30:2 (Summer 1987), 301.


5. For the details of this conference see Canada, "Extract From The Report of the Minister of Agriculture for 1874", (PAC RG 76, Vol. 625, File 951760 Pt. 1, Reel C-10441), x-xii, and 1-12.


11. For a discussion of Ontario's Industrial Placement Plan and Selective Placement Plan see Hawkins, Canada and Immigration, 203-208.


13. Ibid., 27.


15. Vineberg, "Federal-Provincial Relations," 305-306. The hospitalization agreements were terminated when the federal-provincial medicare cost-sharing program was established. The federal government agreed to assume medical and hospitalization costs for indigent immigrants from the time they arrived in the country until they reached their final destination. The welfare agreements were terminated when the Canada Assistance Plan was established and the federal government agreed to assume responsibility for the emergency financial assistance to indigent immigrants for up to one year from the date of arrival.

16. For an explanation of the concept of voluntary vacancy see Peter Leslie, Federal State, National Economy (Toronto: University of Toronto Press, 1987), 68-69. The only possible exception to voluntary vacancy involved the British Columbia government at the turn of the century which essentially had been forced out of the field by the federal government with the assistance of the courts which, as discussed in the previous chapter, ruled that some provincial immigration initiatives were ultra-vires.

17. Hawkins, Canada and Immigration, 179.

18. Ibid., 179-182.


20. Admittedly, the terms positive veto and negative veto are somewhat unorthodox, but they are used by federal and provincial officials. The concepts 'positive' and 'negative' are value neutral; the former is not deemed better than the latter.


23. Ibid., Section 10(a).

24. Ibid., Section 10(b).

25. Canada-Quebec Immigration Agreement of 1975, Section 2(b).

26. Ibid., Section 11.

27. Ibid., Section 6(a) of the main text, and Section 2(c) of Addendum 1.

28. Ibid., Section 2(d) of Addendum 1.


32. The only possible exception may have been Prince Edward Island with respect to teachers, academics, doctors residents and interns. See Sections 3 (a), 3 (b), and 4 of the Canada-Prince Edward Island Immigration Agreement of 1978. It is not clear, however, whether Prince Edward Island had a veto in decisions to issue visas to such applicants.

33. See Canada-Alberta Immigration Agreement of 1985, Section V2(c).

34. See for example, the Newfoundland, Prince Edward Island, and Saskatchewan agreements which stipulated that the provincial governments would "...consider and advise the Canada Employment and Immigration Commission, concerning all applications from entrepreneurs before the Commission proceeds with their applications for immigrant visas."

35. For details of the procedures on selecting business class immigrants see Canada, Employment and Immigration Canada, Immigration Manual, Chapter IS 5.15.

36. In the case of temporary workers, employment offers had to be validated both by the federal and Quebec governments. In case of disagreement, Quebec's evaluation of applicants prevailed.
37. See provisions on temporary workers in the immigration agreements of Newfoundland, Prince Edward Island, Saskatchewan, New Brunswick, Nova Scotia, and Alberta.

38. See, for example, Section 3 of Saskatchewan’s 1978 agreement, Sections 5 and 6 of Prince Edward Island’s 1978 agreement, Sections 5 and 7 of Newfoundland’s 1978 agreement, and Sections VI (1) and (2) of Alberta’s 1985 agreement.


40. See Canada-Newfoundland Immigration Agreement, Section 6.

41. See Section 7 of New Brunswick’s 1978 agreement, Section 3 of Prince Edward Island’s 1978 agreement, and Sections 2(d), 3(a) and 4 of Alberta’s 1985 agreement.


44. See Québec, Ministère des communautés culturelles et de l'immigration, communiqué de presse, "Immigrants investisseurs en valeurs mobilières: signature d'une entente complémentaire à l'entente Cullen-Couture" (21 février, 1990), 1-2.


47. See Canada-Quebec Immigration Agreement of 1991, Section 15.

48. For an example of the alignment of roles in the settlement of phase involving those provinces during this era see Appendix A in the Canada-Saskatchewan Immigration Agreement of 1978.


50. See Canada-Alberta Immigration Agreement of 1985, Section VII.
CHAPTER 4
THE ALIGNMENT OF POWERS

Introduction

The primary basis of the federal and provincial jurisdictional authority in the field in immigration stems largely from section 95 of the Constitution Act, 1867 which explicitly states that immigration is a field of concurrent jurisdiction with federal paramountcy. Nevertheless, there are other sections of the constitution that, either directly or indirectly, also impinge on the jurisdictional authority of the federal and provincial governments in various phases of the immigration process.

The objective in this chapter is twofold: first, to provide a general overview of the essential features of the key sections of the constitution and juridical principles that either directly or indirectly impinge on the field of immigration; and second, to explain precisely how various sections of the constitution impinge on the constitutional authority of the federal and provincial governments in the various phases of the immigration. Accordingly, this chapter consists of two major sections that correspond to each of those objectives.

An understanding of the alignment of powers in the field of immigration is important for several reasons. First, it contributes to an understanding of the extent to
which the asymmetrical alignment of roles described in the previous chapter is a product, either directly or indirectly, of the alignment of constitutional powers per se. Second, it contributes to an understanding of the reasons that the federal and provincial governments engaged in consultations and negotiations in their respective efforts to achieve a certain alignment of roles, rather than doing so independently by fiat. Third, it contributes to an understanding of their respective jurisdictional authority for determining which of them would perform certain roles in various phases of the immigration process.

The importance of examining the alignment of constitutional powers for federal-provincial relations in various policy fields, including immigration, is underscored by several analysts who suggest that, although the constitution may not be totally determinative of federal-provincial relations, including the alignment of roles between the federal and provincial governments, invariably it fixes their respective initial bargaining positions. The importance of the constitution for federal-provincial relations within the context of Canadian federalism was noted recently in the following terms:

...it [the constitution] provides the fundamental legal authority for the exercise of power. It is the basic determinant of the relative importance of the two orders of government. It helps shape the terms of the political debate and channels the behaviour of private interests. It is the essential
framework through which the larger forces affecting the role of government and the shape of public policy have had to work... At the same time, the division of powers has in turn helped shape the impact of these larger forces and has affected the scope and timing of Canadian public policy, and the policy instruments which the governments have employed."

In addition to the constitution *per se*, another factor which can have an effect on the decisions, or at least the bargaining positions, of the federal and provincial governments related to their respective roles in a given policy field, particularly in fields of concurrent jurisdiction, are judicial interpretations of the constitution. In the field of immigration this includes judicial interpretations of the precise meaning of two key principles embodied in section 95 of the constitution, namely concurrency and federal paramountcy. As W.R. Lederman noted:

"Even if the precise equilibrium point in a concurrent field is reached by political decision or agreement, nevertheless the bargaining position of federal and provincial governments is defined by the judicial decisions about concurrency and the doctrine of Dominion paramountcy."

With the foregoing in mind, the following section will focus both on the alignment of constitutional powers that impinge on the various phases of immigration and the related juridical principles that emanated from court decisions.
Federal and Provincial Powers In Immigration

Although immigration is a field of shared or concurrent jurisdiction, the federal government's legislative authority is preponderant. Its preponderance stems from the so-called paramountcy clause in section 95 of the Constitution Act, 1867 which stipulates that provincial immigration legislation is valid provided it is not repugnant to federal immigration legislation.4

In each Province the Legislature may make laws in relation to...immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to...Immigration in all or any of the Provinces; and any Law of the Legislature of a Province relative...to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.5

While the concurrency provision in section 95 authorizes both the federal and provincial governments to enact legislation pertaining to immigration, the repugnancy provision renders federal immigration legislation paramount over provincial legislation regardless of which one is enacted first.6 The limitations to provincial legislative authority arising from the repugnancy provision in section 95 were augmented substantially by the juridical doctrine of unnecessary redundancy which emerged in the Nakone and Okazake case in 1908. In that case the British Columbia Supreme Court ruled that in order for provincial immigration legislation to be valid it must be shown not only that it is
not repugnant, but that it is "in furtherance or aid of the federal legislation." It is with that doctrine in mind that Lederman explains the relationship of provincial and federal legislation in a concurrent field such as immigration as follows:

Provincial legislation may operate if there is no federal legislation in the field or if the provincial legislation is merely supplemental to federal legislation that is in the field. Duplicative provincial legislation may operate concurrently only when inseverably connected with supplemental provincial legislation, otherwise duplicative provincial legislation is always suspended and inoperative. Repugnant provincial legislation is always suspended and inoperative. These are the implications of the doctrine of Dominion paramountcy developed by the courts.

The paramountcy provision gives the federal government considerable jurisdictional clout in circumscribing the scope of provincial immigration legislation. Some provinces learned about the importance of that clout in their initial efforts to enact immigration legislation. During the first half-century of Confederation the federal government used its paramountcy power to block several pieces of provincial legislation that were not consonant with federal immigration legislation. Between 1884 and 1908, for example, successive federal governments used the paramountcy power to block several pieces of legislation which sought to curtail Chinese immigration. Ironically, the federal government itself, at the behest of some provinces, adopted
legislation which included provisions such as "head tax" and the minimum level of funds needed to enter Canada were designed to curtail Chinese as well as Japanese and Indian immigration.\textsuperscript{11}

In light of its paramountcy power, the federal government can utilize its immigration legislation to determine the scope of provincial immigration legislation. The federal government has considerable latitude in this respect. At one extreme it could enact legislation, the scope of which would be so far-reaching, that it would effectively preclude the ability of the provinces to enact legislation of any significant scope which was not either repugnant to, or at least in furtherance and in aid of, federal immigration legislation. Alternately, at the other extreme, the federal government could vacate the entire field thereby permitting the provinces to legislate without any encumbrances stemming from the federal government's paramountcy power.\textsuperscript{12}

Another important possibility is that the federal government could enact statutes which would make it possible for some provinces, but not others, to exercise authority over a certain aspect of immigration. For example, the federal government could enact statutes requiring that immigrants destined to certain provinces be selected according to federal criteria, but those destined to other provinces be selected according to provincial criteria.
This is possible because there is no constitutional provision which requires either that all provinces must be treated equally with respect to their ability to legislate in a field of concurrent jurisdiction with federal paramountcy, or that all applicants destined to the various provinces must be selected according to the same criteria.

The federal government's jurisdictional clout in immigration under section 95 is enhanced further by virtue of its authority under several other sections of the constitution that either directly or indirectly impinge on immigration. Section 91(25), for example, grants the federal government exclusive jurisdiction over naturalization and control of aliens. This is a very important power for the federal government in relation to the field of immigration. Quite apart from empowering the federal government to determine the terms and conditions for citizenship, which in itself can have an important effect on immigration trends, the federal government is empowered to determine the terms and conditions for the admission of immigrants into Canada, the permissible and non-permissible activities of immigrants while in the country, and ultimately the basis for deportation. While all of these are important powers, the most important for the actual processing of immigrants and refugees destined to Canada is the federal government's power over admission. The federal government can use that power to determine the nature and
volume of immigrants, refugees, and visitors that shall be permitted to enter into Canada as well as the precise point of entry. Thus, even if the provincial governments recruit and select immigrants, refugees, and visitors, the federal government is authorized to determine whether they shall actually be admitted into the country. After all, although pursuant to section 95 the provinces can enact statutes relating to immigration, the 'pith and substance' of such statutes cannot impinge on the federal government's exclusive jurisdiction for control of aliens.¹³

The federal government's jurisdictional clout in immigration is also enhanced by Section 132 which grants the federal government extensive, if not exclusive, authority over external relations.¹⁴ Some immigration activities are inextricably linked to external relations in at least two major ways. First, since recruitment and selection of immigrants generally takes place in other countries and is subject to the approval of the so-called immigrant-source countries. Second, the fact that prior to their arrival in Canada immigrants, refugees and visitors are residents of other countries means that the decisions that are made either to admit or not to admit them into this country, regardless of how they got here, is a critical matter which can not only affect Canada's bilateral relations with the countries involved but, depending on the nature of its decisions particularly with respect to refugees, it can also
have significant implications for its multilateral relations and its obligations under multilateral international treaties such as the United Nations Convention on the Status of Refugees.

Although the federal government’s jurisdiction in the field of external relations is extensive, its precise scope has been a subject of considerable controversy during this century. In recent decades the most significant debates on this issue have involved the federal and Quebec governments. The latter have argued that Section 132 is anachronistic and that whatever authority the federal government has in external relations, it is not absolute and all-encompassing. More specifically, they have argued that the federal government’s authority does not preclude their right to engage in external relations both in fields of exclusive provincial jurisdiction and also in fields of concurrent jurisdiction such as immigration. In the field of immigration, successive Quebec governments have maintained that section 132 does not negate their right to engage in the recruitment and selection of immigrants abroad, participate at international fora on immigration and refugee issues, and to enter into agreements with foreign countries on immigration related matters such as study and work exchanges, and pension benefits for immigrants.

Rather than put the question of jurisdiction in external relations to the courts, successive federal governments have
sanctioned and facilitated Quebec's initiatives in the field of immigration. Notable examples of such initiatives include the agreements on educational and cultural exchanges such as the Quebec-France agreement on the so-called 'cooperants' of 1975, the Quebec-France agreement on temporary workers of 1989, and the various pension agreements concluded between Quebec and numerous countries in recent decades.17

In addition to sections 91(25) and 132, there are at least four other sections of the constitution which contribute to the federal government's jurisdictional clout in immigration. This includes sections 91(11), 91(2)A, 91(29), and 94(A).18 Section 91(11) grants the federal government exclusive jurisdiction for quarantine. Although not as significant today as it was in the past when quarantine of immigrants was a common occurrence, it still provides the federal government with a degree of justification for being involved in the medical screening of immigrants and, if need be, placing immigrants in quarantine upon arrival. Section 91(2)A grants the federal government exclusive authority over unemployment insurance. Section 91(29), the residual clause, confers on the federal government jurisdictional authority over employment planning and training, by virtue of the fact that it is not explicitly identified as a provincial power.19 Section 94(A) grants both the federal and provincial governments
jurisdiction for pensions and supplementary benefits, albeit subject to provincial paramountcy. These three sections provide the federal government with jurisdictional authority to determine the unemployment insurance benefits of immigrants, the employment training that they will be offered, and their pension benefits, albeit subject to provincial paramountcy. Such authority allows the federal government to maintain a major presence in the integration phase of the immigration process.

Although the provinces’ ability to enact immigration legislation and to become actively involved in the field is severely circumscribed by the federal government’s jurisdictional authority pursuant to sections 95, 91(25) and 132, it is by no means totally negated. The provinces can enact legislation that deals with any aspect of immigration which is not covered by the federal government’s legislation and regulations. Their ability to do so is quite important because, as Valerie Matthews Lemieux suggests, federal immigration laws and regulations are far from exhaustive in their coverage, and most of the federal government’s policies and operational directives on specific aspects of immigration are contained in administrative manuals rather than statutes. She adds that the provinces’ "knowledge of the federal dilemma significantly strengthens provincial bargaining power."

The provinces’ bargaining power is also strengthened by
a juridical doctrine which stipulates that provincial legislation in areas of exclusive provincial jurisdiction shall not be rendered inoperative simply because it is repugnant to federal immigration legislation. This is a very important doctrine for the provinces because it provides them an opportunity to affect immigration through the strategic use of their authority under, for example, section 92(13) which empowers them to deal with matters of property and civil rights. Equally important are sections 92(7) and 93 which grant them exclusive authority for health and education respectively. The nature of health and education policies which the provinces establish not only has a direct impact on the nature of services which will be provided to immigrants and their children, but it may well affect their decisions about whether they will choose a particular province as their destination or indeed whether they will come to Canada at all. Quebec's official language statutes that were in force between 1977 and 1991 which required new immigrants to educate their children in French is certainly a case in point. Another example of provincial powers in other areas of jurisdiction which might impinge on the decision of immigrants to come or stay in Canada is found in section 94(A) which provides for concurrent jurisdiction with provincial paramountcy over pensions. Pursuant to section 94(A) Quebec not only established the Quebec Pension Plan, but as of 1991 it had
entered into agreements with fifteen countries regarding the transferability of pension benefits for immigrants. The nature of the Quebec Pension Plan and the terms of those pension agreements could affect immigration to that province. Clearly then, by exercising their authority in areas of exclusive and concurrent jurisdiction the provinces could "accomplish indirectly what they may not do directly" in the field of immigration.25 The federal government is fully cognizant of the importance of the provinces' constitutional powers in the aforementioned fields for immigration in general and for settlement services in particular. Hence, in its efforts to develop an effective immigration program the federal government is constrained to consult and collaborate with the provinces in providing settlement services. This gives the provinces some clout at the federal-provincial bargaining table. The federal government's recognition of the importance of the provinces' jurisdictional authority in this policy field was articulated by the federal Minister of Manpower and Immigration in 1969 as follows:

Immigration is, of course, a field in which the provincial and federal governments have concurrent jurisdiction, although in case of conflict, the federal government has primacy. A workable immigration system requires, however, a great deal of federal-provincial collaboration. Provinces have jurisdiction in fields that are vital to the establishment of immigrants in Canada such as education, welfare, hospitals and medical services
which emphasizes the close links which are necessary.\textsuperscript{26}

Although the Charter of Rights and Freedoms does not bestow any special authority in the field of immigration either upon the federal or provincial governments, various provisions therein have significant implications for their respective policies and programs. Indirectly, they could also have significant implications for federal-provincial bargaining on the alignment of roles in the various phases of the immigration process. Pursuant to Section 6 of the Charter, immigrants, like citizens, enjoy mobility rights; that is, the right to free movement both within and across the provincial and territorial boundaries.\textsuperscript{27} Thus, once immigrants are admitted into the country neither the federal nor provincial governments can limit their mobility within the country. This constitutional provision has significant implications for planning and managing immigration in this country in at least two respects. First, the immigration policies and programs of the federal government have to be sensitive to migratory trends of both newly arrived immigrants and long-time residents within the country. Second, the immigration policies and programs of any of the provinces can have significant consequences for the other provinces as immigrants migrate from the former to the latter. In turn, this can have significant implications for how both the federal government and the various provincial governments might react not only to the immigration policies
of certain provinces, but also to the roles that they perform, or wish to perform, in bringing immigrants into their respective provinces.

Although governments cannot limit the mobility of immigrants, in special circumstances they may be able to limit the employability in a given province of immigrants that are not residents of that province. Section 6(4) of the Charter of Rights and Freedoms allows both the federal and provincial government to institute preferential hiring practices for residents in a province "...if the rate of employment in that province is below the rate of employment in Canada." Although they could not discriminate against newly arrived immigrants that landed in that particular province, this provision clearly allows them to discriminate against immigrants as well as Canadian citizens living in other provinces. The potential use and abuse of this provision creates another constitutional imperative which the federal and provincial governments must consider when they make decisions regarding both the alignment of roles between them, and their respective policies regarding the volume and nature of immigration that should be admitted into the various provinces and into the country as a whole.
Conclusion

This overview of the constitutional alignment of powers has highlighted three key features of the constitutional context in which the federal and provincial governments aligned their respective roles in the various phases of the immigration process from 1971 to 1991.

First, although the constitution apportioned jurisdictional authority between them, it did not stipulate precisely which roles either the federal or any of the provincial governments could or were obliged to perform in the various phases of the immigration process.

Second, under the constitution the federal government possessed a preponderance of jurisdictional authority to engage in planning and management activities in all phases of the immigration process, with the possible exception of settlement. The paramountcy provision in section 95 of the constitution, together with its exclusive authority over control of aliens under section 91(25) of the constitution, provided the federal government with extensive authority to determine both the scope of its immigration legislation and the nature and scope of the roles that it would perform in most, if not all, phases of the immigration process. By extension, those sections also empowered the federal government to determine, albeit indirectly, the scope of provincial immigration legislation and the roles that the provinces would be authorized to perform in the various
phases of the immigration process. It must be underscored, however, that although the federal government could determine which roles various provinces would be authorized to perform in most phases of the immigration process, the provinces were not obliged to perform any roles that the federal government wanted them to perform. Thus, although the federal government could occupy the field in a way that prevented provinces from performing certain roles, the latter had the constitutional right not to perform any roles. In the settlement phase the provinces have considerable jurisdictional authority to perform key roles because, unlike the other phases of the immigration process, many of the key roles normally performed in this particular phase either fell fully within, or impinged heavily upon, areas of exclusive provincial jurisdiction.

Third, under the Constitution Act, 1867 all the provinces had the same constitutional authority to enact laws pertaining to immigration, all were equally subject to federal paramountcy, and all had the same constitutional authority to perform key roles in the immigration process. In light of this fact, the question remains: What accounts for the asymmetrical alignment of roles? Clearly, an answer to that question requires that we look somewhat beyond the constitution to other factors that might have produced the alignment of roles between the federal and provincial governments. In keeping with the fundamental premise of
this study, W. R. Lederman has suggested that the key factors to consider are the decisions of politicians and bureaucrats:

...the existence of a concurrent field means that there is room for political agreement between provincial and federal governments, about whether the federal parliament or a provincial legislature undertakes the regulation of this or that phase of a concurrent matter. The precise equilibrium point in practice then would become a matter for political and administrative decision.²⁶

It is with this in mind that in an effort to ascertain the determinants of the asymmetrical alignment of roles, the focus in the next two chapters of this study will be directly on the decisions of federal and provincial governments made separately and jointly from 1971 to 1991.
ENDNOTES


4. For a well organized overview of the powers bestowed on the federal and provincial governments by many of these key sections see Jacques Brossard, L'Immigration: Les droits et pouvoirs du Canada et du Québec (Montréal: Les presses de l'université de Montréal, 1967), 43-71.


7. See Brossard, L'immigration, 46; 55; 153 n. 45.


9. For an excellent discussion of the use of the federal governments power of paramountcy and disallowance to invalidate provincial legislation relating to immigration and immigrants see Brossard, L'immigration, 59-65.


12. Jacques Brossard and Yves de Montigny note that: "...it is useful to remember that paramountcy accorded by section 95 of the constitution of 1867 to the federal Parliament does not constrain it to occupy the entire field of immigration and to disregard the provinces completely. Paramountcy is a potential power; as long as the federal government does not legislate contrary to a provincial law, the latter remains valid." Jacques Brossard and Yves de Montigny, "L'immigration: ententes politiques et droit constitutionnel," *La Revue Juridique Thémis* 19:3 (1985), 320.


15. For a detailed account of those struggles between federal and Quebec governments see Claude Morin, *L'art de l'impossible: La diplomatie québécoise depuis 1960* (Montréal: Boréal, 1987), 7-471.


17. See "Entente Paris-Québec sur l'immigration" *Le Devoir*, June 10, 1989, A2; and Québec, Communiqué de presse, "Entente en matière de sécurité sociale entre le Québec et le Luxembourg," March 28, 1990. That press release notes that in addition to the agreement concluded with Luxembourg, similar agreements were concluded with the following countries: Germany, Barbados, the
Dominican Republic, United States, Finland, France, Greece, Italy, Jamaica, Norway, Portugal, Saint Lucia, and Sweden.

18. For a discussion of these sections of the constitution see McConnell, *Commentary on the British North America Act*, 181-184, 201-203, 296-300.

19. At the time of writing the federal and Quebec governments are engaged in preliminary negotiations for an agreement that in effect would delegate responsibility for employment and employment training to the provincial government. See Rhéal, Seguin, "Quebec steps up demand for power: Seeks Control of Manpower, UI," *Globe and Mail* (December 14, 1990), A1, A8.


21. Ibid., 119.

22. This doctrine is explained by Jean Mercier as follows: "...provincial legislation that encroaches upon non-essential consequences of alienage or naturalization or is repugnant to a Dominion Statute on immigration, is constitutional if it bears essentially upon a matter within exclusive provincial jurisdiction." Mercier, "Immigration and Provincial Rights," 868-869.


24. For an analysis of those statutes (i.e., Bills 101 and 178) enacted by the Parti Québécois and the Liberal governments respectively, as well as earlier statutes which afforded immigrants greater freedom with respect to education, namely Bill 63 enacted by the Union Nationale government in 1969, and Bill 22 enacted by the Liberal government in 1974, see Alain G. Gagnon and Mary Beth Montcalm, *Quebec: Beyond the Quiet Revolution* (Scarborough: Nelson Canada, 1990), 182-190.


CHAPTER 5
THE POLITICS OF THE ALIGNMENT OF ROLES
BETWEEN CANADA AND QUEBEC

Introduction
The central objective in this chapter is to ascertain the determinants of the alignment of roles between the federal and Quebec governments from 1971 to 1991. In doing so, and in keeping with the overarching objective of this study, this chapter entails two major analytical tasks. First, to identify the preferences of successive federal and Quebec governments regarding the alignment of roles and to ascertain the factors which shaped the same. Second, where their respective preferences diverged, to ascertain which government's preferences prevailed in the resulting alignment of roles, and why. Furthermore, in ascertaining the factors which shaped their preferences the principal focus will be on the calculations of successive federal and provincial governments regarding the effect that a particular alignment would have for their superordinate regime and non-regime interests. In ascertaining which government's preferences prevailed in cases where their preferences diverged, the focus will be on their respective bargaining capacity.

Although the principal focus in this chapter is on the determinants of the alignment of roles in the post-1970 era, a full appreciation of the determinants of the alignment of
roles during that particular era, requires an understanding of the determinants of the alignment of roles in the preceding quarter century.¹ Therefore, the first part of this chapter provides a brief overview of the determinants of the alignment of roles between Canada and Quebec while the Duplessis, Lesage, and Johnson governments were in power.

The Duplessis Government

The strong interest to become more actively involved in immigration shown by all Quebec governments in the post-1960 era stands in stark contrast to the lack of interest exhibited in the pre-1960 era by the Duplessis government. That government was not only opposed to becoming involved in immigration, but generally it was also opposed to immigration. In Robert Vineberg’s words: "The Duplessis government was not only isolationist, but xenophobic; it had no interest in receiving immigrants, let alone in promoting immigration and services for immigrants."² A manifestation of that xenophobia was evident in 1944 when, in anticipation of increased refugee movements, the Duplessis government, with the support of the majority of the members of the legislative assembly, adopted a resolution permitting the provincial government to boycott all projects of massive immigration proposed by Ottawa.³ The Duplessis government’s negative attitude towards immigration stemmed
from a longstanding belief among traditional Quebec nationalists, both secular and religious, that immigration had a negative effect on the demographic, socio-cultural and socio-economic development objectives of Quebec's francophone and predominantly Catholic community. More specifically, they felt that immigration contributed to the decline both in the proportion of francophones to anglophones and Catholics to non-Catholics in that province, hampered the employment prospects of francophones, and impeded the socio-cultural and socio-economic development of the Québécois community or, as some preferred to think of it, the Québécois nation. According to Pierre Anctil: "Traditionally, the elite Quebec francophone has often perceived the newcomers, especially the allophones and non-catholics, as ideal candidates to be assimilated by the anglo-protestant community, and therefore a threat to the political and demographic survival of the French language collectivities across the country." Michael D. Behiels concurred with Anctil on this point as follows:

Following the Conquest, the French-Canadian society adopted a highly critical and even hostile, attitude toward the immigration policy of the Anglo-Canadian authorities as well as toward the immigrants themselves. This hostility was understandable given the homogeneous nature of the French-Canadian society and the overwhelming British content of nineteenth century immigration. After the turn of the century, the vast majority of non-British immigrants settled on the Canadian prairies or in the remote
resource communities of Ontario and British Columbia. For most French Canadians, these immigrants appeared to integrate and assimilate readily into the Anglo-Canadian society, thereby threatening the traditional bicultural and bilingual balance of the country.  

According to Behiels that view of immigration among Quebec's francophone community remained relatively unchanged between 1945 and 1960 and "the prevalent attitude toward immigration remained that of open hostility" particularly among traditional Quebec nationalists who "when confronted with a new wave of British immigration, expressed considerable resentment, even outrage." The prevailing sentiment among such nationalists was articulated in the reaction of Dominique Beaudin to the 1947 report by a Senate committee which recommended a policy of massive immigration into Canada. Beaudin maintained that immigration, which he dubbed the revenge of the boats, was tantamount to an antidote for French-Canada's revenge of the cradle.

L'immigration, telle que pratiquée dans le passé, telle que prônée pour l'avenir bat en brèche cette unité nationale si hautement désirable pourvu que ce soit à nos dépens.... L'immigration inconsidérée nous apparaît donc comme une mesure dirigée contre la croissance de notre peuple. A notre "revanche des berceaux", on oppose la revanche des bateaux.... On nous supprime l'espace vital."

Such views were also articulated by various Quebec intellectuals throughout the Duplessis era and supported by new studies on the demographic impact of immigration on
Quebec. One of the first major studies of that genre, produced in 1952, suggested that the combination of increased immigration and a rise in the birthrate in other parts of the country combined with a decline in the birthrate among francophones in Quebec and the rest of the country would result in a drop in the proportion of francophones to anglophones in the country. He predicted correctly that unless special measures were taken to reverse this trend, the proportion of francophones would decline to less than 30% of the Canadian population. While traditional nationalists retained their strong anti-immigration views, the emergence of so-called neo-nationalists began to adopt a different attitude towards immigration. During the 1950s neo-nationalist writers in the Quebec media began devoting considerable attention to the negative impact of immigration on the francophone community inside and outside Quebec. Some of them argued that the best way to deal with the problem was for the francophone community to become much more receptive to immigrants and to develop attitudes and programs that would entice the newcomers to integrate into the francophone, rather than the anglophone, milieu in Quebec. The most prolific and notable writer in Le Devoir at that time was André Laurendeau, who eventually co-chaired the federally appointed Laurendeau-Dunton Commission on bilingualism and biculturalism. In his articles Laurendeau criticized, both
explicitly and implicitly, the effect of federal immigration policy on the francophone community and implored the francophone community and the various immigrant aid organizations therein to facilitate the integration of immigrants into the francophone milieu. The same is true of Jean-Marc Léger who wrote similar articles on that issue both in Le Devoir and l’Action Nationale.

What is significant about the clarion calls of most of these writers is that they were largely directed at the Quebec population and the voluntary sector, religious and non-religious, that was or could be involved in assisting immigrants integrate into Quebec society. Very few of them implored the provincial government to assert itself in the field of immigration and perform active roles in the recruitment, selection, or settlement of immigrants. The notable exception was Jean-Marc Léger who in 1956 called for the creation of provincial department to oversee provincial services for recruitment activities abroad as well as reception and settlement services for newcomers in Quebec. However, as William D. Coleman pointed out, "Léger’s concerns were not echoed among his peers, and it was not until the mid-1960s that demands for state action became more pressing." The neo-nationalists' demands for state action in the field of immigration in the mid-1960s, according to Coleman, were in keeping with what was happening in other policy arenas in which traditional non-
governmental institutions have failed to deal with a problem.

The usual pattern in other policy arenas when traditional institutions have not been able to cope with a problem has been to turn to the state. In this case as well, the organized groups most concerned with immigration - nationalist societies based in the francophone middle classes - began to look to the province for help.15

The same point is made by Pierre Anctil, albeit in somewhat more explicit terms:

From the fifties until the arrival in power of the Parti Québécois, the intellectuals and the political class in Quebec joined forces, body and soul, to create a new institutional infrastructure where the state takes charge of the social role [previously] played by the Church. These administrators created a new secularistic ideology, with emphasis on the "Frenchness" of the Quebec culture....16

The debate between the traditional nationalists and the neo-nationalists prior to 1960 did not produce sufficiently strong and persistent calls on the Duplessis regime either to motivate it to alter its attitude toward immigrants or to seek a greater provincial role in various facets of the immigration process. In the absence of such calls, therefore, it is not surprising that even during its last term in power, the Duplessis government did not change its views or policy regarding the province's roles in the field of immigration. The thrust of its position regarding the alignment of roles between the federal and provincial
government was, as it had been throughout its era in power, that the federal government could retain full control of all phases of the immigration process. The Duplessis government was neither interested in finding ways to influence the federal government to place stricter controls either on the volume or linguistic composition of immigration, nor in realignment of roles in this field of public policy. In short, the Duplessis government did not want to have anything to do with immigration.

During the 1950s the Duplessis government refused invitations by the federal government to consult with Ottawa on the volume and type of immigrants that the province wanted to receive. It also rejected invitations by the federal government to enter into four different cost-sharing agreements which federal officials had developed in an effort to enhance immigrant settlement services in all provinces. This included the hospitalization, language training, Hungarian refugees assistance, and welfare assistance agreements. Its reasons for not signing those particular agreements were as follows. First, the Duplessis government saw these particular cost-sharing agreements in the same light as it saw other such initiatives by the federal government, namely as federal incursions into areas of provincial jurisdiction using the power of the purse. Second, it believed that there was no need for either the provincial or federal government to become involved in
immigrant settlement services because traditionally in the province of Quebec such services had been provided by the Catholic church and other non-governmental associations established to assist newcomers. At that time Quebec had one of the most extensive non-governmental network of organizations established to assist immigrants with their settlement needs. An active role by the provincial government in areas of social integration and development was viewed as a challenge to the tacit understanding and arrangements that the Duplessis government had with the Catholic Church of Quebec, and other voluntary organizations, to plan and manage social services for all members of Quebec society, including immigrants.

The most significant contribution that the Duplessis government made to the question of the alignment of roles and responsibilities in the field of immigration was entirely unintentional and indirect. In 1953 it appointed the Royal Commission of Inquiry into Constitutional Problems, better known as the Tremblay Commission, which was primarily charged with investigating federal intrusions into areas of provincial jurisdiction. The Commission, which was established largely as a mechanism to provide the Union Nationale with a nationalist platform on which to fight its next election, delivered a more thorough analysis and extensive set of recommendations than Duplessis had envisioned, or perhaps even wanted. Although the Tremblay
Commission was not specifically charged with examining the alignment of roles in the field of immigration, ultimately it did so, almost as an afterthought. The Commission's decision to devote some attention to immigration was influenced by a brief it received on immigration. The Commission noted that "at the very last moment, when our Report was nearly completed, we received an interesting Brief from the Chambre de Commerce du district de Montréal on Immigration in Quebec." The Commission noted that immigration was an area of shared jurisdiction which required federal-provincial collaboration because federal immigration policies had major implications for various areas of provincial jurisdiction and, ultimately, for the provincial society and economy:

The Parliament of Canada and the provincial legislatures...have joint jurisdiction over immigration. It seems to us that the policy of the federal government on immigration should be one of co-operation with the provinces. The latter have a prime interest in the problem. If, by its policy, the federal government allows entry into the country of more immigrants than the latter is able to absorb, this creates a serious problem for the provinces. Indeed, it is they who must build schools to give instruction and education to the children of all these new families. They will also have to help them to find suitable dwellings, and provide them with the necessary medical and hospital services. Finally, for those who might not be able to pay for all these services, the Province will have to give the assistance of public aid. Moreover, the arrival of a large number of foreigners raises special problems which
cannot be resolved without considerable expense.

From this it will be seen that the co-operation of the federal government with the provinces is necessary if it is wished that immigration be an asset for the country rather than a burden.\textsuperscript{11}

The Chambre de Commerce ended its brief with five major recommendations which the Tremblay Commission endorsed fully and unequivocally. Those recommendations laid the rudimentary foundations for a model of provincial involvement in the field of immigration, a model that would be echoed in the recommendations of subsequent reports on the alignment of roles between Canada and Quebec produced by governmental and non-governmental bodies. The Chambre de Commerce recommended that the provincial government perform key roles in the levels setting, recruitment, selection and settlement phases of the immigration process. More specifically, it recommended that the Quebec government:

- establish a provincial mission in Paris to promote immigration to Quebec from that country and to select the best applicants;
- enter into an agreement with the federal government to promote the immigration of francophones both to Quebec and other parts of Canada;
- develop a comprehensive provincial immigrant settlement program; and establish a provincial body to examine the volume and composition of immigration that should be destined to Quebec to meet its demographic, socio-cultural, and socio-economic needs. The Chambre de Commerce stated its recommendations as follows:
1 --that the government of the Province of Quebec open an agency in Paris where an official would be concerned in furnishing information to candidates for immigration and in organizing by all possible means the selection of the best candidates;

2 --that the Government of the Province of Quebec organize conjointly with, and with the help of, the various ministries and federal services concerned...the policy and technique of the immigration of people of the French language to Canada and particularly to the Province of Quebec.

3 --that the Department of Labour of the Province of Quebec immediately occupy itself in:
   a) educating labour unions regarding immigrants;
   b) preparing a pamphlet explaining the labour laws, of the Province for the use of immigrants;
   c) opening to immigrants its centres of apprenticeship, which could easily serve as centres of adjustment;
   d) requiring that the citizenship committees consider the immigrant sympathetically;

4 --that the Government of the Province make an effort to obtain the help of all classes of society, of all groups and all associations in the political, social, cultural, economic and religious fields, with the aim of creating in the Province a climate favourable to the integration of the immigrants into Quebec society;

5 --that the Government of the Province of Quebec have some competent body to determine whether there should be an intensifying of the arrival of immigrants of the French language in Quebec and, if need be, in what parts of our economy they are likely to render the best service.  

The Tremblay Commission concurred fully with those
recommendations. In its words: "We endorse the recommendations of the Chamber of Commerce and transmit them to the Government of the Province of Quebec." The Commission concluded the section of its report on immigration by noting that it also wanted the provincial government to consider an issue raised in a brief it had received from the Immigrants' Aid Society. According to the Commission, that brief urged the Quebec government to become more actively interested in immigration, to set up a permanent consultative commission on immigration matters, and to encourage education institutions to develop courses adapted to the needs of newcomers in order to facilitate their integration into Quebec society.

The Tremblay Commission's report marked the triumph of neo-nationalists over traditional nationalists on, among other things, the provincial government's proper role in immigration. Whereas the latter wanted the provincial government to continue its longstanding approach of distance and disapproval towards immigration, the former wanted it to assume a proactive role. More specifically, they favoured that the Quebec government exercise its jurisdictional authority in the field of immigration to pressure the federal government to develop a more selective immigration policy that would target a higher percentage of francophone and francophonisable immigrants to Quebec, and also develop a system of reception and integration policies, programs,
and services designed to facilitate the integration of the vast majority of immigrants into the francophone milieu.

The Tremblay Commission's recommendations on Quebec's need to gain and exercise greater control in areas of jurisdiction which impinged on the social and economic development of the province, provided the philosophical basis on which subsequent governments, as well as various influential members of the attentive public, would base their calls for greater provincial involvement in planning and managing immigration. William D. Coleman's assertion that "the Commission's suggested political program served as a guide for Quebec's political leaders..." in subsequent decades, certainly applies to the field of immigration. It must not be forgotten, however, that in terms of outlining both a rationale and plan for Quebec's involvement in the field of immigration, the Tremblay Commission itself was heavily influenced by a group of individuals in the Chambre de Commerce du district de Montréal and the Immigrants' Aid Society of Quebec. The important point here, however, is that neither those groups nor the Tremblay Commission was able to sway the Union Nationale governments under Premier Duplessis or Premier Barrette to alter their views on the nature and degree of provincial involvement in immigration. The remainder of this chapter, however, will reveal that they had a significant effect on the thinking of Quebec provincial governments that succeeded them.
The Lesage Government

The election victory of the Lesage government in 1960 brought with it a new attitude both towards immigration and provincial involvement in that field. The Lesage government, like all subsequent Quebec governments, embraced the spirit of the Tremblay Commission's report regarding the benefits of a properly planned and managed immigration program for the province's demographic, socio-cultural, and socio-economic goals. It also embraced the view that effective planning and management in immigration required increased federal-provincial collaboration. However, initially at least, the Lesage government did not feel that proper planning and management necessarily required direct provincial involvement in the recruitment and selection of immigrants. On this particular point it shared the federal government's view that in order to ensure that immigration served the social and economic development objectives of Quebec required two interrelated initiatives were required: a concerted effort by the federal immigration service abroad to provide Quebec with the type of immigrants that it desired; and a concerted effort by the provincial government to facilitate the integration of the majority of immigrants into the francophone community in Quebec. Given that shared view, most of the discussions held between the Lesage government and its federal counterparts between 1960 and 1966 were on how the federal government could adjust its
immigration policies and recruitment programs to attract more immigrants who either spoke French or at least could be taught to do so after they settled in Quebec. Very little attention was devoted to whether the Quebec provincial government could perform a direct role in recruiting and selecting immigrants destined to that province.

The extent to which the Lesage government intended to rely on the federal immigration service to attract immigrants that would contribute to that province's social and economic development objectives is evident in the fact that after nearly five years in power it had still not devoted the resources for the operation of a small provincial immigration service to engage in research on immigration matters, and had not made any major efforts to do so.27 In fact, had it not been for a motion tabled in 1965 by a member of the Union Nationale, which was the official opposition at that time, the Lesage government would have probably not established such a service prior to its election defeat in 1966.28 Indeed, during that debate the Lesage government balked at efforts to have the motion read that a "ministry" rather than merely a "service" of immigration should be established. The Union Nationale felt that a ministry would provide a symbolic basis to the equality of authority between the federal and provincial governments.29 Shortly thereafter an interministerial committee was established to examine, among other things,
the key elements of a provincial immigration policy and program.

In a report submitted to cabinet in the fall of 1965 the interministerial committee concluded that such a policy and program should revolve around two key objectives: link immigration to the economic and cultural imperatives of the province; and facilitate the integration of immigrants into Quebec society. The committee added that the achievement of the first objective would require the provincial government either to control or at least to influence the recruitment process, and the achievement of the second objective would require it to plan and manage settlement services. Although the committee's report did not produce instant results, it laid some important foundations for Quebec's involvement in immigration.

The limited progress that the Lesage government made in performing a direct role in recruiting and selecting immigrants, or even in pressing the federal government to enter into agreement that would have allowed it to do so, may have not been due to a lack of will alone. It may have also been due to two other interrelated factors. First, the Lesage government had a heavily loaded, if not overloaded, policy agenda. The Lesage government had undertaken the ambitious task both to modernize the Quebec state and society, and also to modify its own relations with the federal government in most fields of jurisdiction.
Consequently it could not devote as much bureaucratic or political attention to the immigration issue as it may have wished. Second, the Lesage government may have been hampered by the relatively limited amount of time it had to develop its position on the province's involvement in immigration given that this had not been an issue which had received much attention from Quebec's bureaucrats or politicians in previous years. By the time it lost the 1966 election the Lesage government was still at the base of the 'learning curve' in trying to determine precisely what roles it could or should perform in the field of immigration. Consequently, it could not exploit fully public proclamations by federal ministers responsible for immigration that they welcomed provincial assistance in promoting immigration abroad. To some extent, this is also true of its successor.

One of the most significant contributions made by the Lesage government towards an increased provincial role in immigration, was the establishment of the bipartisan Legislative Committee on the Constitution in 1963. The Committee consisted of Georges-Émile Lapalme, Paul Gérin-Lajoie, René Lévesque, Jean-Jacques Bertrand, Daniel Johnson, Jean Lesage, and Claude Morin as its secretary. The Committee commissioned Jacques Brossard from the Institute of Research on Public Law, and a prominent member of Les États Généraux du Canada Français, to examine the
scope of Quebec’s jurisdictional authority in the field of immigration and to produce some models for federal-provincial arrangements in this field of public policy.33 The Committee’s terms of reference were to examine existing arrangements between Canada and Quebec in various fields of public policy, Quebec’s constitutional authority in such areas, and suggest the means that the provincial government could employ in ensuring the development of what it termed the French-Canadian nation.34

Although the Committee was mandated to consider the status quo and unitarianism as options for arrangements between Canada and Quebec, it concluded that those options were unacceptable. Hence, it concluded that the options of constitutional models available to Quebec were: a decentralized federal system; special status for Quebec; sovereignty association; and independence.35 In presenting his recommendations for realigning powers and roles in the field of immigration Brossard did so under three major headings: present system; special status; and confederal association. Given the importance that those recommendations would have in shaping the thinking of successive Quebec governments on this issue after 1967 it is useful to quote them in full:

a) RÉGIME ACTUEL

1. Le Québec pourrait s’occuper davantage de l’intégration des immigrants par le gouvernement central, y compris de leur bien-être et de leur
formation civique. Pour que son action en ce domaine soit vraiment efficace, il lui faudrait cependant adopter par ailleurs certaines mesures d'ordre général dans les domaines économique et linguistique.

2. Il pourrait poster dans certains États étrangers des agents d'immigration qui verraient à recruter les candidats les plus utiles au Québec, sur les plans professionnel et ethnique, tout en étant susceptibles d'être admis par les autorités fédérales. Il pourrait en outre, au besoin, conclure des accords avec des États étrangers.

3. Il serait souhaitable qu'un comité fédéral-provincial sur l'immigration soit établi, vu les incidences de celle-ci sur la vie économique et culturelle des États provinciaux, et singulièrement du Québec, et que ces derniers aient leur mot à dire quant à la politique fédérale d'immigration.

4. Peut-être le Québec pourrait-il accorder aux immigrants susceptibles de mieux s'intégrer à la majorité certains avantages ou privilèges. Il pourrait de plus interdire aux corps professionnels d'exclure de leurs rangs certains étrangers qualifiés.

b) STATUT PARTICULIER

1. Outre les pouvoirs juridiquement accessibles sous le régime actuel, le Québec devrait obtenir, au sein d'une fédération très décentralisée quant à lui, le pouvoir pour ses agents à l'étranger de contre-viser les passeports des immigrants désireux de s'établir au Québec: sans ce visa québécois, les étrangers admis par le gouvernement central en qualité d'immigrant ne pourraient séjourner au Québec qu'à titre de touristes, c'est-à-dire sans pouvoir y obtenir de travail ni pouvoir y demeurer de façon permanente; leurs séjours au Québec ne compteraient d'ailleurs pas en vue de
l’obtention de la citoyenneté canadienne.

2. Peut-être serait-il possible d’instituer, à l’instar de certains autres États fédérés, une citoyenneté québécoise réglementée conjointement par le Québec et par l’État fédéral, et sans laquelle une personne établie au Québec ne pourrait obtenir la citoyenneté canadienne.

3. D’autre part, les candidats choisis par le service québécois d’immigration devraient, à certaines conditions, être automatiquement admis par les autorités fédérales.

4. Le Québec devrait pouvoir, au besoin, conclure avec des États étrangers des traités en la matière; ceux-ci, toutefois, ne devraient pas affecter l’exercice par l’État fédéral de ses propres compétences et ne pourraient donc validement porter que sur des sujets précis relatifs à l’immigration et à l’émigration québécoises.

5. Le comité conjoint sur l’immigration serait dans ce cas bilatéral et non pas multilatéral.

c) ASSOCIATION CONFÉDÉRALE

Souverain, le Québec serait en principe seul compétent à légiférer quant à la naturalisation et au statut des étrangers aussi bien qu’à l’égard de l’immigration. Il pourrait cependant remettre ou déléguer à l’organe paritaire central l’exercice de certaines pouvoirs en ces domaines, selon la nature de son association plus ou moins confédérale avec le reste du Canada; il pourrait par contre conserver tous les pouvoirs qui lui paraîtraient nécessaires. S’il exerçait sa souveraineté en dehors de toute association confédérale, rien ne l’empêcherait par ailleurs de coopérer à ces sujets avec le Canada anglais."
As the remainder of this chapter reveals, Brossard's recommendations, some of which were very similar to those of both the Tremblay Commission and the interministerial committee noted above, became the blueprint for Quebec's involvement in immigration during subsequent decades. Particularly significant in light of the central objective in this chapter are Brossard's recommendations for provincial involvement in the recruitment and selection of immigrants. He concluded that under the existing constitutional regime nothing prevented the Quebec government from posting officers in various countries to recruit, interview, and even select immigrants who would contribute to the economic and cultural needs of the province. Brossard added that although Quebec could undertake many of these initiatives on its own, a more prudent approach would be to enter into formal agreements with the federal government. Although Brossard's blueprint was produced as a result of the Lesage government's initiative to establish the aforementioned legislative committee in 1963, it would be subsequent governments who would use it as the basis on which to build a provincial immigration service and develop a new alignment of roles between themselves and their federal counterparts. The first to do so was Daniel Johnson's Union Nationale government after the 1966 election.
The Johnson Government

Political support among Quebec's politicians and the attentive public for the provincial government's involvement in immigration was consolidated significantly during the provincial election of 1966. That political support confirmed for all parties what they had suspected; increased provincial involvement in immigration was not only good policy, but good politics. In their respective efforts to gain the support of autonomists, both the Liberal and Union Nationale parties indicated that a major objective would be to increase the province's role in immigration. This was unprecedented; never before had Quebec's role in immigration been an important election issue. In the wake of the Quiet Revolution, however, both the Liberal and Union Nationale parties believed that, given the growing autonomist sentiments in the province, the prospect of Quebec gaining some control over immigration would strike a responsive chord in the electorate. The basic thrust of their argument was that immigration could contribute to that province's social and economic development if the provincial government assumed key roles in planning and managing immigration.

That argument was echoed in an influential book written by Rosaire Morin, director general of the Conseil d'expansion économique de Montréal, and also vice-president and director general of Les États Généraux du Canada Français, and published by the Action Nationale in 1966.
That particular book, which was published on year before Brossard's study, epitomized, and probably contributed to, the emerging perception at that time of immigration as an important tool for the survival of the francophone community in Quebec. In that book Morin argued that in order to ensure that immigration was made consonant with Quebec's social and economic development objectives, it was necessary to establish a provincial immigration department, place Quebec immigration officers in francophone countries, establish provincial reception services at ports of entry, and create a Quebec job placement service. One of the most significant comments in Morin's book which foreshadowed what would eventually occur in immigration concerned the need to move towards asymmetrical and decentralized arrangements in immigration. In his words: "La politique d'immigration ne peut être unique, uniforme et centralisée. Elle doit être aussi définie en fonction du Canada français."

Morin's views were echoed by Marcel Masse, Quebec minister of Education, in a speech titled "L'immigration au Québec---Un facteur de croissance que le gouvernement ne negligera plus" in which he underscored the effects of immigration on that province's social and economic development, and the need for the provincial government to assume a key role in planning and managing immigration. In that speech he noted that since 1946 Quebec was receiving
less than its proportionate share of immigration, that only
twelve to thirteen percent of immigrants came from the
francophonie and that ninety percent of all immigrants
integrated into that province's anglophone community. In
that speech he noted that in part the Quebec government and
the francophone community were to blame for that result. He
suggested that due to indifference and in some instances
hostility towards immigration insufficient efforts had been
made either to attract francophone immigrants or to
encourage new immigrants to integrate into the francophone
community:

Nous ne faisons aucun effort pour aider
le nouveau-venu à s'intégrer dans le
milieu francophone; au contraire, nous
allons même inconsciemment l'orienter
vers le secteur anglais en ne prenant
pas en main la situation de son arrivée.
Notre indifférence, sinon notre
hostilité, rebute alors rapidement
l'immigrant, surtout lorsque ce dernier
prend conscience du rôle économique
dominant de la langue anglaise dans son
milieu.45

Increased provincial involvement in immigration was
also advocated in a report by the Constitutional Committee
of the Quebec Liberal Federation's Policy Commission the
year after the 1966 election. The 1967 policy paper,
written by Paul Gérin-Lajoie in response to a policy paper
written by René Lévesque advocating a sovereign Quebec,
asserted that in realigning the constitutional powers of the
federal and provincial governments, Quebec required
additional jurisdictional authority in the field of
immigration so that it could establish and apply its own immigrant selection criteria: 46

...important to cultivation of our collective personality is a state immigration policy, drafted by Quebec in terms of her own cultural and economic aims. Therefore, Quebec must obtain more complete jurisdiction than she now has in this field, particularly as regards selection criteria and actual choice of immigrants. 47

The federal government, led by Lester Pearson, was fully aware of the central importance that the immigration issue had achieved in Quebec politics. Its minority government status in the House of Commons, combined with the prospect of a federal election in the near future, made the federal government very sensitive both to public attitudes in that province and the demands of the provincial government. Within the House of Commons the federal government had been encouraged by several Members of Parliament from Quebec to adjust its policies to meet that province’s social and economic development objectives, and also to involve the provincial government in planning and managing immigration. 48 On one such occasion in 1966, Jean Marchand, Minister of Manpower and Immigration indicated that the federal government was prepared to enter into negotiations with its Quebec counterpart:

...if Quebec wants to become interested in the problem of immigration, it is up to that province to contact the federal government. We would be very glad to discuss the matter with the provincial authorities to find out what their
intentions are and to assist them in achieving their objectives.\textsuperscript{49}

Within a year of the 1966 election campaign Johnson's Union Nationale government contacted the federal government to express its view on the aforementioned matters. At that time it reiterated the position it had articulated during the 1966 election campaign regarding the need to involve Quebec in the recruitment and settlement phases of the immigration process.\textsuperscript{50} Throughout its four years in power the Union Nationale government negotiated with the federal government on the nature and scope of Quebec's involvement in those two phases of the immigration process. Agreement on Quebec's involvement in the settlement phase proved to be much easier to achieve than its involvement in recruitment.

In order to assist immigrants with their settlement needs, in 1968 the federal and Quebec governments agreed that the province would establish the Centres d'Orientiation et de Formation des Immigrants (COFI) to provide language training and orientation programs for immigrants.\textsuperscript{51} To facilitate the mission of the COFIs and reduce the costs to the provincial treasury for operating them, the provincial government signed two bilateral cost-sharing agreements with Ottawa which had been signed by most other provinces nearly a decade earlier. This included the 'Language Training Agreement' which required the federal government to cover half of the costs for language training classes and the 'Language Textbook Agreement' which required it to assume
the full cost of texts used in those classes. Eventually in 1971 the Bourassa government would also sign the 'Language Textbook Agreement'.

The issue of Quebec's involvement in the recruitment phase of the immigration process was much more difficult to resolve. Although the federal and Quebec governments shared the objective of increasing the proportion of francophone immigrants to that province as well as increasing the proportion of all immigrants, including francophones, that would integrate into the francophone community in that province, they had somewhat different views on the nature and extent of Quebec's involvement in the recruitment phase of the immigration process.

The federal government preferred that Quebec performed only a limited role in recruitment phase of the immigration phase. More specifically, it wanted the province to limit its involvement to producing promotional literature and undertaking promotional tours on a periodic basis in the francophonie that would create a greater awareness of the francophone nature of that province. As well, the federal government wanted the Quebec government to assist it in its continuing efforts to convince the French government to facilitate and augment immigration of its residents to Quebec. Its own efforts to do so had not received a very encouraging response from its French counterpart which seemed intent on minimizing immigration from that country to
any countries other than those under France’s sphere of influence. It hoped that the Quebec government could exploit its close ties with the French government to accomplish that task.\textsuperscript{54} Insofar as Quebec was to undertake any formal recruitment activities, the federal government hoped that it would establish a programme comparable to Ontario’s Selective Placement Service, which concentrated on finding foreign workers to fill specific job vacancies in that province.\textsuperscript{55} It did not want the Quebec government to establish a full-fledged permanent immigration service abroad that would engage in recruitment activities either in Europe or elsewhere on a permanent basis.\textsuperscript{56}

Although initially it was ambivalent about precisely what role it wished to perform in the recruitment phase, by 1969 the Union Nationale government had decided that it did not want either to limit itself to a purely promotional role as envisioned by the federal government, or to establish a full fledged recruitment service around the world comparable to that of the federal government. It rejected the first option because it felt that it would not have had a significant effect on the nature of immigration flows to that province. It rejected the latter option because at that time it was not prepared to incur the costs for a full-fledged provincial recruitment service on a world-wide basis.\textsuperscript{57} Ultimately, it decided to concentrate its resources on recruitment activities in a few European and
Middle Eastern countries that could provide the immigrants with the linguistic and occupational background that Quebec sought. The decision to choose that particular region of the world was largely based on the consideration that there was a significant concentration of countries in which the citizens could either speak French, notably France, Belgium, Switzerland, and Lebanon, as well as some countries in which immigrants could be found that were likely to become functional in French within a relatively short time because they spoke romance languages, namely Italy, Spain and Portugal. The choice of the region of the world in which it would concentrate its recruitment activities was only one of key issues that the Quebec government had to consider in establishing a recruitment service. Other issues included the countries and cities in which Quebec's immigration officers would be posted, whether they would be housed in provincial or federal missions, and the precise scope of their activity in immigration. Those particular issues became the subject of sporadic negotiations between the federal and Quebec governments between 1967 and 1970.

Those issues were first broached, but not resolved, during a meeting between Premier Daniel Johnson and the federal Minister of Manpower and Immigration, Jean Marchand, held in January 1967. During that meeting they only agreed to cooperate in stimulating immigration to Quebec and facilitating the integration of immigrants into the
The issue was again broached a year later during a meeting between Marchand and Quebec's Provincial Secretary, Yves Gabias, held in January 1968. Once again, however, there was no agreement on precisely what role Quebec would perform in the recruitment phase. A month after that meeting, however, Mr. Gabias publicly announced that an agreement had been reached with the federal government "to place Quebec immigration officials in Canada's immigration offices abroad." In response to that announcement the federal Minister of Immigration, Jean Marchand, noted that other provinces had been active in recruitment activities abroad in the past and Quebec was availing itself of the same opportunity. Despite that announcement, nearly eighteen months passed before the Quebec government formally requested that its officials be placed in federal offices abroad. In the interim, the Quebec government established the Department of Immigration as well as the COFIS.

In the fall of 1969 Quebec's Minister of Immigration, Mario Beaulieu, formally requested that the provincial government be authorized to place its immigration officers in federal visa offices in Brussels, Lisbon, Beirut, Rome and Athens. In making that request the Quebec government indicated that contrary to initial intentions of having its officers undertake extensive recruitment activities in that region, such officers would only perform an information and
orientation role, rather than a recruitment role. Their principal task would be to help federal officials inform prospective immigrants about, among other things, the socio-cultural nature of Quebec society and employment opportunities in that province.

The Union Nationale government believed that posting its officers in federal missions rather than Quebec missions was advantageous for at least three reasons. First, the proximity of Quebec officers to their federal counterparts would help to sensitize federal officials to that province’s immigration needs. Second, such proximity would allow Quebec officers to learn and monitor the policies as well as the management and administrative practices of their federal counterparts. Third, this was the most cost-efficient way to perform a role in immigration in countries where it had not established provincial missions. Given the amount of financial resources which had been devoted to establishing both the Department of Immigration and the COFIs in 1968, the Union Nationale government, now led by Jean-Jacques Bertrand, felt that it could not afford to devote the additional resources needed to establish provincial immigration missions in various countries.² This may also explain why the Quebec government decided to limit the scope of its officers to orientation activities which simply required them to operate in federal offices rather than undertake independent recruitment activities that would have
entailed considerably more financial resources to cover both their travel costs and various initiatives to promote immigration to that province. An equally important consideration in this respect was that at that time the provincial government was not as interested in increasing the volume of immigration as it was in encouraging the immigration of those with skills which were in short supply in that province and who were likely to integrate into the francophone community. The placement of orientation officers in federal offices provided the Quebec government with a relatively inconspicuous and effective means to encourage or discourage certain applicants from choosing that province as their destination without engaging in promotional activities that might increase the level of immigration to that province substantially.

Quebec's clarification of the cities in which it wanted to post its officers, and the precise role that it wanted them to perform eased some of the anxieties among federal officials who had feared that Quebec would seek the authority to develop a comprehensive provincial recruitment program that paralleled the federal program. Especially reassuring for the federal government were comments made by Quebec's Provincial Secretary, Yves Gabias, that his government had no intention of supplanting the federal government or impinging on its jurisdictional authority to select and admit immigrants.
Shortly after it received that request, the federal government instructed its officials to evaluate the feasibility of accommodating Quebec's officers in federal offices located in the aforementioned cities. The evaluation focused on two major sets of concerns. The first set of concerns related to the efficiency in processing applications. Some officials were concerned that involvement by Quebec officials could adversely affect the efficiency in processing applications. More specifically, they were concerned that it would add another level of bureaucracy to an immigration process that was already cumbersome because in addition to the intergovernmental coordination between the Canada and the immigrant-source countries, it also involved intragovernmental coordination between the various federal government departments that were involved in immigration at that time, namely Manpower and Immigration, External Affairs, Health and Welfare, and the Secretary of State. 47

The second set of concerns related to the effect that the presence of Quebec officials in federal offices abroad would have for intergovernmental relations. This included the federal government's relations with immigrant-source countries, the other nine provincial governments, and also with the Quebec government itself. In terms of the potential problems for the federal government's relations with Quebec, federal officials were concerned that disputes
could emerge both over the scope of the provincial officers' role in the immigration process and also the terms and conditions of their posting in federal offices abroad. In terms of potential problems in Canada's relations with immigrant source countries, they were concerned that some governments might not be receptive to such an arrangement both because dealing with provincial as well as federal officials might increase the administrative burden on their bureaucracy, and also because it could complicate and adversely affect their relations with Canada.  

In terms of potential problems in Canada's relations with other provinces, federal officials were concerned that the presence of Quebec officers in federal offices abroad on a permanent or even semi-permanent basis might make it difficult to accommodate officials from other provinces that wished to use such offices in undertaking promotional activities both in immigration and also in trade and investment. As well, the federal government was concerned that it would be vulnerable to criticism from other provincial governments that Quebec was being given a special status in immigration and an unfair advantage over other provinces in attracting suitable immigrants.

The avoidance of the semblance of special status was a major concern for Prime Minister Trudeau and some members of his government and party who had explicitly rejected such a status for that province two years before he had assumed the
prime ministership.\textsuperscript{69} A central proposition in his philosophy on federalism, which he espoused even prior to his entry into federal politics, was that special status for Quebec would do little to further the interests of francophones inside and outside that province, to foster the effective operation of both the parliamentary and federal system, or to plan and manage programs efficiently and effectively on a national basis.\textsuperscript{70} His concerns regarding the effect that special status would have on the operation of the federal system and in planning and managing programs on a national basis were shared by prominent federal officials working for the Trudeau government.\textsuperscript{71} Despite such opposition to special status for Quebec, and in the face of its efforts to eliminate it in other policy fields, ultimately the Trudeau government, like its predecessors, was constrained to give Quebec such status, even if only at the de facto level, in the field of immigration.\textsuperscript{72}

In their evaluation of Quebec's proposal to place its officers in federal missions abroad, federal officials suggested that most of the aforementioned potential problems could be minimized if three conditions were met: first, Quebec accepted the principle that the posting of its immigration officers in federal offices would be subject to approval by the federal government in consultation with the host governments; second, the federal government was prepared to allow other provinces to post immigration
officers in its offices abroad in order to preclude any criticism that Quebec was receiving special status or treatment in the field of immigration; and third, the terms and conditions for the placement of Quebec's immigration officers in federal offices abroad were clearly stipulated in advance.73 Once that evaluation was concluded, the federal government gave its approval in principle for Quebec to place its immigration officers in federal visa offices in Brussels, Lisbon, Beirut, Rome and Athens.

Its decision to do so was based on its calculations regarding the effect that it would have on its material and non-material interests. The federal government hoped that Quebec's involvement would help to reduce the longstanding criticism that the federal immigration program was not sufficiently sensitive to that province's social and economic development objectives.74 More specifically, it hoped that it would eliminate criticism that the federal immigration program did not recruit and select a sufficient proportion of immigrants who integrated into the francophone community in that province. If the provincial government's involvement did not increase either the number of francophones immigrants or the percentage of immigrants who integrated into the francophone community, it would substantiate the federal government's argument that it was not to blame for the pattern of immigration to that province and its effect on the numerical balance between the
anglophone and francophone linguistic communities. If the provincial government's involvement had a positive effect both on the pattern of immigration and also on the integration of a higher proportion of immigrants into the francophone community, so much the better. The federal government could share the credit both for the results and also for its willingness to collaborate with the provincial in a policy field which was crucial for the social and economic development of the province.

Another major factor that led the federal government to accede to the Quebec government's demand was its calculation that it was in a weak bargaining position vis-à-vis its Quebec counterpart on this particular issue for several reasons. First, it would have been very difficult for it to justify refusing facilitating Quebec's involvement in immigration given that in the past its predecessors had facilitated and condoned either comparable or even more extensive involvement by other provinces, and especially Ontario. The federal government was particularly concerned that either the Quebec government or that portion of the Quebec media that supported the province's initiative would point to the fact that for several decades Ontario had been quite active in promoting immigration to that province from the United Kingdom from its provincial offices in London and Glasgow with the consent of the federal government.
Second, the federal government was concerned that refusal to accommodate Quebec's immigration officers in federal missions abroad would have prompted the latter to place immigration officers in provincial missions abroad without its consent. The Union Nationale government had threatened that if Ottawa did not collaborate on this issue, it would act unilaterally in negotiating agreements with foreign governments to open provincial immigration offices in their countries. That was neither a remote possibility nor an empty threat. To facilitate such unilateral action section seven of Quebec's 1968 Department of Immigration Act empowered the minister responsible for immigration to enter into agreements with foreign governments on immigration matters. Furthermore, while federal and provincial officials were negotiating the terms and conditions of placing Quebec officials in federal offices abroad, the Union Nationale government started placing immigration officers in its own missions in Paris and Milan in 1969 and 1970 respectively. The federal government felt that if the Union Nationale proceeded to establish provincial missions which housed provincial immigration officers in other countries, it could have been considerably more problematical than the proposed arrangements utilizing mutually agreed-upon guidelines for the participation of Quebec officers in the immigrant orientation process.
Third, and more significantly, the federal government was concerned that the Quebec government would have argued that pursuant to the concurrency provision in section 95 of the constitution it had a right to engage in recruitment and orientation activities. More specifically, it was concerned that the Quebec government would have argued that if concurrency did not even guarantee Quebec the authority to participate in the orientation of immigrants to living and working conditions in that province what, if any, importance did it have? If it had no importance, then perhaps it was necessary to enhance Quebec’s jurisdictional authority in the field of immigration through a formal constitutional amendment. The federal government did not want immigration to become another item on the Quebec government’s list of policy fields in which the constitutional division of powers had to be modified.79 The federal government was also concerned that in invoking such a logic and strategy the Quebec government could have utilized Ottawa’s own position paper titled Federalism and International Relations, in which it expressed that it was committed to cooperate with the provinces in fulfilling their objectives abroad provided they were not contrary to federal policy.80 In defending its position Ottawa would have had to demonstrate how allowing Quebec officers to engage in immigrant orientation within federal offices under the supervision of federal officials could have been contrary to federal policy.
Another major concern for the federal government was that if it did not agree to the arrangements proposed by Quebec it would have become another irritant in their negotiations on the issue of Quebec's involvement in international relations which had plagued relations between Ottawa and Quebec since the mid-sixties. Throughout the 1960s, but particularly between 1966 and 1970, the federal and Quebec governments were engaged in intense negotiations regarding that province's role in international relations involving matters that fell into areas of either exclusive provincial jurisdiction or concurrent jurisdiction.\(^1\) In that context, the federal government was concerned that a negative response would have led the Quebec government to press for additional constitutional powers in international relations as well as immigration during that round of negotiations.\(^2\) The likelihood of that happening increased as the next provincial election approached. A more significant provincial role in immigration had been a popular item in the Union Nationale's 1966 election platform, and there was nothing to suggest that it would be any less popular in the upcoming election. The likelihood of that happening was also significantly increased given the autonomist electoral platform that was being developed by the newly established Parti Québécois led by René Lévesque.\(^3\)

Although the Union Nationale government had managed to
constrain the federal government to accede to its demand for placing Quebec immigration officers in federal offices abroad it was not able to conclude a formal written agreement. There are two major reasons for this. First, for the Union Nationale government signing a formal written agreement was not a high priority. It had achieved its objective of getting an oral agreement on placing immigration officers abroad. The question of a formal written agreement at that time was more important to the federal government because it wanted to ensure that the terms and conditions for posting Quebec immigration officers abroad were stringent and clear. Second, his government turned its attention to preparations for a provincial election that would be held in the spring of 1970. The defeat of the Union Nationale in that election left it for Premier Robert Bourassa’s Liberal government to finalize the terms and conditions for placing provincial immigration officers in federal offices abroad and to define their precise role.

The Bourassa Government

The return to power of the Quebec Liberal Party under its new leader, Robert Bourassa, did not diminish the drive for an increased provincial role in planning and managing immigration. Its drive for such a role, like that of its predecessors in the 1960s, was fuelled by calculations that
performing such roles would be beneficial for its regime and non-regime interests. In terms of its regime interests, it calculated that it would be beneficial for its electoral interests as well as its regime-capacity and regime-legitimacy interests. In terms of its non-regime interests, it calculated that it would be beneficial both for its social and economic development interests.

Between its election victory in April 1970 and its eventual defeat in November 1976, the Bourassa government demanded key roles both in the recruitment and selection phases of the immigration process. During that time it negotiated and concluded two immigration agreements with the Trudeau government, namely the Lang-Cloutier agreement of 1971 and the Andras-Bienvenue agreement of 1975. Although during that time it did not succeed in constraining the federal government to accede to all of its demands, the Bourassa government managed to constrain the federal government to authorize it to perform key roles in counselling, recruiting and to some extent evaluating immigrants destined to Quebec. The negotiations that produced each of the aforementioned agreements and their key provisions are discussed in turn below.

When it assumed power in 1970 the Bourassa government did not have to generate any support for demanding increased authority in immigration either among its bureaucrats, the public or the membership of the Quebec Liberal Party. The
Lesage and Johnson governments had laid the political and administrative basis for an increased provincial role in immigration. Towards that end, upon assuming power the Bourassa government decided to continue the negotiations which had been initiated by its precursor on the roles of Quebec's immigration officers and the precise terms and conditions for posting them in federal visa offices abroad.

Although during those negotiations the Bourassa government expressed an interest in the possibility of Quebec's officials performing a larger role in recruiting immigrants than had been envisioned under the agreement in principle of 1969, ultimately it decided not to press for such a role at that time. Evidently it did not do so because the Quebec Ministry of Immigration, which had been established only two years earlier, still had not acquired the human resources required to undertake extensive recruitment and selection activities.63 To overcome that deficiency the Quebec government asked the federal government to accept some provincial officials into its training program for federal immigration officers. Given that deficiency, the Bourassa government decided that until its officials had been trained and developed some expertise in the field of immigration it was prudent to place them in federal offices abroad, as had been envisioned by its predecessor, to assist federal officials in providing information to prospective immigrants. Such an arrangement
would provide provincial officials with the opportunity to learn about the federal government's immigration operations abroad and prepare them to perform more significant roles in the future. Clearly, the Bourassa government saw the 1971 agreement as a small, albeit important, first step before it pressed the federal government to grant its officers additional authority in the recruitment and selection of immigrants. This marked the start of what in retrospect amounts to a successful strategy of "étape" in the field of immigration in the post-1970 era.

For its part, the Trudeau government preferred that Quebec's officers perform the roles which had been envisioned under the agreement in principle of 1969. From its point of view the issue of the role of provincial officers had already been decided, the only remaining task was to finalize the terms and conditions for the placement of details of the arrangements and the precise form which the agreement would take. The federal government was relieved when it became obvious that Premier Bourassa would not press hard to expand the role of the provincial officers. By 1971 the federal government had become more concerned than ever that negotiations on issues such as immigration might have an adverse affect on the negotiations on constitutional patriation and reform. To reiterate, the federal government was concerned that intransigence on its part regarding a provincial role in immigration, may have
led the Quebec government to press for a realignment of constitutional powers in the field of immigration. By 1971 the linkage between those two issues was tightened because negotiations on the immigration agreement paralleled those on the Victoria Charter. In fact, the 1971 agreement was signed just one month prior to the final decision on the Victoria Charter. If the agreement had not been signed just before Premier Bourassa reneged on his commitment to endorse the Victoria Charter, one wonders if and when it would have been signed. It was against that political backdrop that on May 18, 1971, just thirteen months after the Bourassa government assumed power, his minister responsible for immigration, Marcel Cloutier, and his federal counterpart, Otto Lang, signed the first bilateral immigration agreement in history for placing immigration officials in federal offices abroad.

Apart from various provisions relating to the financial and logistical aspects of the arrangement for placing Quebec immigration officers abroad, the Lang-Cloutier agreement contained two important sets of provisions. The first set of provisions identified the federal offices in which Quebec could post its officers. The agreement authorized Quebec to post an "orientation officer and a secretary-clerk-interpreter...within federal immigration offices...in Athens, Beirut, Brussels, Lisbon, and Rome, as well as any other federal immigration office where a similar Quebec
presence might be requested and deemed possible."86 The significant omission in that list of cities was Paris. There was a tacit understanding that the provincial government could post its immigration officers in its own mission in that city without Ottawa's consent because the French government allowed it. In an effort to avoid problems in Canada's relations with other countries, however, the agreement included a provision to the effect that Canada was not bound to accommodate Quebec officers in federal offices if the host government did not consent to such an arrangement.87

The second important set of provisions in the 1971 agreement dealt with the role of Quebec's officers. As their title suggests, the orientation officers were to limit their activity to providing information to prospective immigrants on living and working conditions in Quebec:

The regular and normal role of an Orientation officer of the Quebec Department of Immigration is to provide further information beyond that supplied by the Federal party on living and working conditions in Quebec to applicants destined to that province; referrals of the applicants with their applications will take place at the interview after they have been declared admissible by a visa officer and the applicants have then agreed to a suggested meeting with the representative of the Quebec party.88

The agreement stipulated that these officers were to limit their contact with prospective immigrants to orientation activities once they were granted a visa, they were not to
engage in recruitment activities prior to the issuance of that visa. Nevertheless, such officers were permitted to meet with persons who indicated they wanted to find out more about living and working conditions in Quebec before they either applied for, or were granted, a visa:

The Quebec Orientation officer shall not act as a recruitment officer. He may, however, receive directly and at his discretion any person who seeks him out, and if he deems it appropriate, subsequently indicate in writing his opinion regarding a candidate, to the visa officer. In cases which, prima facie, appear valid to him, the Quebec Orientation officer may give his visitor the required application form for admission.99

Although Quebec’s officers could indicate in writing an opinion to federal visa officers on prospective immigrants who approached them, it was understood that their views would not necessarily determine whether a visa would be issued to applicants. That would be decided by federal officials “in light of the Canadian Immigration laws, regulation and criteria.”90 This meant that, at least for the duration of that agreement, the federal government retained control over the selection of immigrants.

In concluding the Lang-Cloutier agreement the federal government was still concerned about the political problems that could arise if other provinces perceived that Quebec’s recruitment activities were giving that province an advantage in attracting the most desirable immigrants. In an effort to preclude or at least minimize such problems the
federal government insisted that the following provision be included in the agreement which underscored that Quebec would not have a role in the recruitment and selection of immigrants:

...a Quebec presence in a federal office does not have as its objective or effect to place the Quebec government in a privileged position in the field of immigration recruitment and selection, as compared to the other provinces, but to enable a Quebec Orientation officer to receive and to advise, counsel and assist an immigrant who has chosen Quebec as his place of settlement....

The inclusion of that provision in the text became particularly important when Quebec insisted that rather than simply a letter of understanding, which the federal government preferred, it wanted a formal executive agreement. Although there is very little difference in terms of their force under the law, a formal agreement signed by the Ministers representing the two governments had greater visibility and profile, and therefore greater symbolic value. This was especially important for Premier Bourassa at that time because he wanted to point to it as a significant accomplishment both toward achieving a greater degree of control over immigration and as a progressive step on the road toward his stated objective of 'cultural sovereignty' for Quebec. That is, the objective of ensuring that the Quebec government had extensive jurisdictional authority to pursue its social development objectives, and particularly the development of
the francophone community in that province. The signing of the agreement was also part of Premier Bourassa's strategy to achieve by executive agreements on a bilateral basis, what might be difficult to achieve via constitutional reform.94 As subsequent sections of this chapter reveal that would be a key strategy for Bourassa in all subsequent rounds of negotiations.

A feature-length article which appeared in a Quebec newspaper shortly after the agreement was concluded suggests that both the federal and Quebec governments were correct in their assessment of the symbolic value of a formal executive agreement. The article was largely devoted to the issue of whether this was in essence a treaty comparable to treaties among sovereign nations or something less than that.95

It looks like a treaty. It reads like a treaty. It has the effect of a treaty. All that keeps it from being a treaty is that Quebec does not have the status of a sovereign state, to thus make the agreement binding in international law.96

Other commentators, however, were not as impressed by the scope of provincial involvement under the agreement. One commentator, for example, referred to it as insignificant and pernicious:

L'initiative québécoise est inutile, puisqu'elle ne contribue en rien à combler les graves insuffisances du recrutement fédéral d'immigrant québécois; elle est également pernicieuse, puisqu'elle donne l'illusion d'une action québécoise à l'étranger en matière d'immigration.97
Apart from its importance in giving Quebec officers a formal role in the immigration process, the 1971 agreement was also important in establishing the foundations for future negotiations and agreements. It was on those foundations that in subsequent years the Bourassa government and its successors pressed their federal counterparts for more significant roles in the recruitment and selection of immigrants.98 Indeed, the Bourassa government viewed it as merely an initial step toward assuming more significant roles in the various phases of the immigration process. Efforts at subsequent steps towards that end were made within a year that the Lang-Cloutier agreement were signed.99 At that time the federal and Quebec governments began discussing the possibility of expanding the scope of Quebec's roles in immigration, but detailed negotiations would not commence until 1973.

Shortly after its election victory in 1973 in which it won an even more impressive majority than in 1970, and just two years after the Lang-Cloutier agreement had been signed, the Bourassa government began expressing a strong desire to renegotiate that agreement. By this time it had decided that it wanted to broaden the authority of its immigration officials to include key roles in recruiting and selecting immigrants. The impetus to do so was provided by two major factors. The first was the positive experience which it had in its involvement in immigration since 1971. During that
time there had not been any major administrative or political problems as a result of the Orientation activities of Quebec's immigration officers. The second major factor was the recommendations in the report of the Commission of Inquiry on the Position of the French Language and Language Rights in Quebec, better known as the Gendron Commission.100

The Gendron Commission argued that Quebec was facing what it termed 'demographic stagnation' which would have economic and social consequences both in the near and distant future. The two options for dealing with demographic problems were an increased birth rate and increased immigration flows. With respect to immigration the Commission suggested that Quebec had to become much more directly involved in the field than it had been in the recent past. As well it suggested that Quebec's fledgling Ministry of Immigration which, according to some analysts had been established in 1968 largely to appease autonomist sentiments, had to be given greater human and financial resources in order to fulfil its critical mandate.101 It added that towards that end the Quebec government itself should be authorized, either via a constitutional amendment or a new executive agreement, to determine the volume and qualifications of immigrants destined to that province and also to select them:
Since the Quebec government is mainly responsible for the maintenance and development of economic, social welfare throughout its territory, it should be in a position to exercise this responsibility when immigrants wishing to settle in Quebec are selected. This would imply either a pertinent constitutional amendment vesting in the Quebec government the power to determine the number of immigrants it will receive in the future, as well as their professional and cultural qualifications, or the implementation of administrative measures different from those at present governing federal-provincial intergovernmental relations.¹⁰²

These recommendations foreshadowed the thrust of Canada-Quebec initiatives during and after the Meech Lake Accord constitutional reform exercise. The Commission added that to facilitate Quebec's involvement in immigration a permanent federal-provincial committee should be established to coordinate the activities of the federal and provincial governments in immigration. Furthermore, the Commission recommended that the Quebec government undertake negotiations with the federal government for a complete revision of the terms of the Lang-Cloutier agreement of May 18, 1971 for the purpose of increasing:

(a) the powers of Quebec's immigration information agents abroad so that they may reach more applicants and supply them with all particulars concerning Quebec;

(b) the number of immigration information agents so that Quebec may be adequately represented at all important immigration centers.¹⁰³
As well, the Commission recommended that the federal department of immigration should provide Quebec officials with the relevant information on all applicants destined to that province.

Although, as shall be discussed below, the Bourassa government would eventually seek some constitutional recognition of its authority in immigration before its electoral defeat in 1976, its first priority was to develop the administrative arrangements between itself and the federal government as recommended by the Gendron Commission. Negotiations for changes to the administrative arrangements in the 1971 agreement commenced a year after the agreement was signed. Quebec's new immigration minister, Jean Bienvenue acknowledged that while the 1971 agreement was useful some changes were needed to increase the number of Quebec immigration offices and officers abroad and also to enhance the role of such officials in decisions regarding the suitability of applicants destined to Quebec. He noted that while he was determined to accomplish that objective, success depended on proceeding with prudence and maintaining good relations in his negotiations with his federal counterpart who seemed receptive to changes to the administrative arrangements. In a statement which suggests that he had some appreciation of the federal government's dilemma of entering into such arrangements with Quebec but not other provinces the Minister stated that "...le Québec
n'est pas une province comme les autres provinces sur bien
de plans et le problème d'immigration au Québec est
absolument différent des autres provinces.... Alors,...nous
sommes les seuls...a profiter d'une entente...."104

The Bourassa government's opportunity to present a
detailed plan for altering the Lang-Cloutier agreement in
immigration emerged in the fall of 1973 when the federal
government decided to prepare a green paper on
immigration.105 A few months later, in anticipation of the
publication of that green paper, the Quebec government
submitted a brief to the federal Minister of Immigration
which echoed the recommendations of the Gendron Commission
noted above regarding the need to increase Quebec's
involvement in immigration. In that brief the Bourassa
government, like the Gendron Commission, underscored the
need to make immigration more consonant with that province's
demographic, socio-cultural and socio-economic
objectives:106

It seems to us in Quebec...that it is
more than ever necessary to recall the
importance to our province of a vigorous
and selective immigration. Quebec...is
faced with a serious problem of a
falling birthrate. The population of
our province is approaching...'zero
growth.' From an economic development
aspect, Quebec has every interest in
seeing its population increase. From
the language and cultural aspect, a
selective and intelligent immigration,
that is to say one that is adapted to
the needs of Quebec should, in the long
run, reinforce the Francophone group in
Canada, and participate in its peaceful
A key recommendation in that brief was that the Lang-Cloutier agreement be revised as soon as possible in order to expand Quebec's role in the recruitment and selection phases of the immigration process:

37. The powers of Quebec's Officers in federal immigration offices abroad, as defined in section 10 of...[the Lang-Cloutier] agreement, are far too limited, and altogether unsatisfactory. In practice, they do not see candidates unless they are referred by their federal immigration colleagues; moreover, they are not allowed to do any recruitment....

39. ...Quebec's orientation officers must be allowed more initiative in the realm of recruitment for two purposes: generally, recruitment of prospective immigrants, and specifically, specialized manpower requested by Canadian employers operating in Quebec.

40. Finally, Quebec's orientation officers...should see all applications from prospective immigrants wishing to settle in Quebec, and no visas should be granted without the Province's approval. Furthermore, they must also be given the opportunity to reject certain candidates who do not meet the Province's needs, before any visas are issued.

The recommendations in that brief regarding the nature of Quebec's role in those two phases of the immigration process were clarified by Quebec's Minister of Immigration, Jean Bienvenue, in a statement to the National Assembly made in conjunction with the 1974 Speech from the Throne which noted that one of the government's principal objectives was to
perform key roles in the various phases of the immigration process. In that statement to the National Assembly, he explained that the Quebec government sought to conclude an agreement which would authorize it to: post recruitment officers and undertake recruitment initiatives anywhere in the world; participate in the evaluation and selection of all applicants wishing to immigrate to Quebec; and veto the admission of any applicant into Quebec whose qualifications did not meet the province’s needs and objectives. That objective was clearly articulated in the position paper which the Quebec government had submitted to the federal government earlier that year. That objective constituted the key element of the draft agreement which the Bourassa government submitted to the federal government in May 1974. Later that year Quebec’s Department of Immigration Act was formally amended to authorize the provincial minister responsible for immigration to recruit and select immigrants as well as to integrate them and their children into the francophone community in that province.

In response to the Bourassa government’s demands for key roles in the recruitment and selection phases, the federal Minister of Immigration, Robert Andras, notified his Quebec counterpart that although the federal government was willing to allow provincial officials to evaluate applications and make a recommendation to federal officials on the same, it was not prepared to grant them a veto in the
selection of individuals.\textsuperscript{113} He stated the government's position while appearing before the Standing Committee on Manpower and Immigration in 1974, and reiterated it in 1975 in response to a question of Quebec's authority in selecting immigrants while appearing before the Special Joint Committee on Immigration which had been established to hold hearings on the federal Green Paper:\textsuperscript{114}

I want to make it quite clear... as I have to the Government of Quebec and as I have publicly, that while, by the British North America Act, immigration is recognized as a matter of provincial interest... the federal role is paramount—we have primacy. And we have said it very clearly that we do not intent to surrender the power of final approval or rejection over people coming to Canada—which includes people coming to Quebec. We have made that very clear.

...we find many avenues where cooperation can be improved.... But, as far as I am concerned --and I speak for the government on this-- it will always stop short of the surrender of power for final approval or rejection.\textsuperscript{115}

Andras was able to assert that he was speaking for the government because prior to his address to the Committee, the federal Cabinet had endorsed a position paper which recommended that although Quebec officials could be authorized to perform a key role in recruitment as well as a very limited consultative role in the selection process, final authority over selection and admission should rest with the federal government.\textsuperscript{116}

The federal government opposed a provincial veto in
the selection process for several interrelated reasons. First, and most importantly, it feared that it would impede its ability to plan and manage both immigration and the labour market on a national basis, especially since the volume of immigration to that province constituted a significant proportion of the total annual intake. Second, it was concerned that if Quebec obtained such a veto, other provinces might have requested the same by invoking the 'equality of provinces' principle. Third, it was concerned that granting Quebec such a veto could have hampered its relations with various immigrant-source countries as a result of any decisions made by Quebec officials regarding the suitability of their nationals to immigrate to that province. The federal government was also concerned that the risk of such problems emerging would have been increased if other provinces demanded and were granted such a veto. Finally, to a much lesser extent, the federal government was concerned about the effect that granting Quebec a veto would have had on its electoral interests and its system development interests. More specifically the federal government was concerned that granting Quebec a veto would have been criticized by other provinces, some MPs from outside Quebec either for principled or expedient reasons, the media in other provinces, and possibly also from immigrant communities inside Quebec who had been infuriated by the provincial government's language statutes, namely
Bill 63 enacted by the Union Nationale government and Bill 22 enacted by Bourassa’s Liberal government. Similarly, it felt that giving Quebec a veto in the selection of immigrants, might have exacerbated anti-Quebec sentiments outside that province and done little to further the cause of national harmony and unity. Given those political dynamics, the federal government felt that while it could defend facilitating an increased involvement by the Quebec government in the selection of immigrants, it would have been very difficult to defend a decision to allow Quebec to exercise a veto.

Although the federal government was concerned about the programmatic and political ramifications of granting Quebec a veto in the selection of immigrants, it had no doubts about its jurisdictional authority to prevent the province from exercising it. The federal government was confident that it was unlikely that the Quebec government would challenge its authority over the selection and admission of immigrants in the courts given the federal paramountcy under section 95 and exclusive federal jurisdiction under section 91(25) of the constitution. In light of those constitutional provisions the federal government was also confident that it would win if the Quebec government chose to pursue the matter in the courts.

The Bourassa government was aware of the federal government’s resolve not to grant it a veto in the selection
of immigrants. Equally important, it was aware that on this particular issue the constitution favoured the federal government's position.\textsuperscript{119} Given the prospect that the federal government's position on the veto could have jeopardized the signing of a new agreement, the Bourassa government decided to modify its stance on that particular demand.\textsuperscript{120} The decision to do so reflected the preference of the Minister of Immigration, Jean Bienvenue, who according to newspaper reports did not share Premier Bourassa's initial views regarding the necessity of a veto in the selection of immigrants at that particular point in time. In commenting on the decision regarding the veto, the former indicated to journalists that it was the Premier and not he that had raised the issue of a veto.\textsuperscript{121} Once the Quebec government decided not to press for a veto, the negotiations which ensued after the preliminary discussions between the federal and provincial ministers of immigration, revolved largely around the scope of Quebec's involvement in the recruitment and selection of immigrants in a way that would not impinge on the federal government's authority to make final decisions on the selection and admission of immigrants and on the placement of Quebec's immigration officers in federal and provincial missions abroad. The results of those negotiations are found in the Andras-Bienvenue agreement signed on October 17, 1975.

Under the 1975 agreement Quebec was given more latitude
than it had under the 1971 agreement regarding the placement of its immigration officers in cities abroad. Whereas the 1971 agreement obliged Quebec to place its immigration officers in federal offices in only a handful of cities and in federal immigration offices in such cities, the 1975 agreement lifted that restriction. Section 2(b) of the 1975 agreement gave Quebec the option of placing immigration officers in any city that the federal government had its own immigration offices. Furthermore, it stipulated that in such cities Quebec could place its officers either in federal offices if space permitted, or in Quebec Houses.

This arrangement gave both the federal and Quebec governments greater flexibility in placing provincial officers abroad. For its part Quebec had greater latitude with respect to the cities and facilities in which it could place its officers. For its part the federal government was able to constrain the Quebec government to place immigration officers only in cities in which a federal immigration presence existed. The federal government hoped that such proximity would not only facilitate the efforts of its officials to monitor the activities of their Quebec counterparts, but also reduce the possibility that there would be delays in, and greater costs for, coordinating immigration related matters between them.

That agreement also expanded the role of Quebec’s immigration officers beyond orientation of immigrants on
living and working conditions in that province as stipulated in the Lang-Cloutier agreement of 1971, to include key roles for them both in the recruitment and, albeit to a very limited extent, also in the selection phases of the immigration process. Their role in the selection of immigrants was outlined in Section 6 of the agreement and elaborated in Section 2 of Addendum 1. Section 6 stipulated that Quebec officials would be authorized to review and comment on all applications for permanent resident visas "from candidates destined to Quebec or who, in the opinion of the Canadian official, are apt to settle there." The agreement added that federal officials would take into consideration the opinion of their Quebec counterparts before making a final decision to accept or reject such applicants, and also that in cases where the opinion of the Quebec and federal officers on the suitability of a candidate differed, consultations would take place.  

Nevertheless, the agreement clearly stipulated that the "final decision on the selection of an immigrant must be made by a Canada Immigration officer." Under this arrangement Quebec had been authorized to perform a limited consultative role in the selection process but the federal government retained full control of the point system and the right to have the final say in the selection of all applicants. Although this was significantly less authority in the selection process than the Quebec
government had initially sought, it was still considerably more than it had under the Lang-Cloutier agreement of 1971.

At the same time that they were renegotiating the Lang-Cloutier agreement, the federal and Quebec governments were also involved in a new round of negotiations on constitutional reform that had commenced after the federal election in 1974 in which the Trudeau government returned to power with a majority government. Although Premier Bourassa did not press for a constitutional amendment to Section 95 of the constitution to give Quebec more authority in immigration, he did press for a constitutional amendment to provide a more solid constitutional basis for federal-provincial executive agreements in various policy areas, including immigration. Premier Bourassa felt that some constitutional safeguard was needed to ensure that the executive agreements were not abrogated by the federal government. Hence, he proposed that a provision sanctioning such agreements be included in the constitutional reform package. The federal government accepted that proposal and such a provision was included in Article 40(1) of the 'Draft of a Proclamation' for patriation and amendment of the constitution dated November 10, 1975, just one month after the Andras-Bienvenue agreement was signed. In a letter to all the Premiers in March 1976, Prime Minister Trudeau explained that Article 40(1) could be used to sanction constitutionally both future executive agreements,
as well as any agreements which had already been concluded with respect to, for example, immigration and family allowances during the first part of that decade. The provisions of Article 40(1) indicates, however, that it was primarily the constitutional validity of agreements with Quebec and the preservation and development of the French language and culture which were uppermost in the Prime Minister’s mind at that time:

In order to ensure greater harmony of action by governments and especially in order to reduce the possibility of action that could adversely affect the preservation and development in Canada of the French language and the culture based on it, the Government of Canada and the Governments of the provinces in any one or more of the Provinces may, within the limits of the powers otherwise accorded to each of them respectively by law, enter into agreements with one another concerning the manner of exercise of such powers, particularly in the field of immigration, communications, and social policy. 126

That particular round of constitutional negotiations did not result in any reforms to the constitution. Consequently, that particular provision did not make it into the constitution at that time, and was not raised during the constitutional reforms that led to the Constitution Act, 1982. As shall be discussed in a subsequent section of this chapter, it was not until his return to power in 1985 that Premier Bourassa would demand that a similar provision, albeit one dealing exclusively with immigration agreements,
be included in the constitutional reform packages produced, but not adopted, between 1987 and 1992. In fact, that became one of his government's key conditions for endorsing both the Meech Lake constitutional accord of 1987 and the Charlottetown constitutional accord of 1992.

Although the Bourassa government did not succeed on its efforts for the constitutional amendment to protect immigration agreements, it was relatively successful in its negotiations on the alignment of roles in immigration. Its accomplishments in constraining the federal government to accede to its demands for a realignment of roles during its time in power in the early seventies are succinctly summarized by William Coleman as follows:

By 1975, the province had negotiated a significant voice for itself on the first seven of the following tasks: 1/ informing immigrants about the nature of Quebec before departure; 2/ contributing supporting funds to francophone welcoming centres; 3/ establishing francophone welcoming centres; 4/ providing the education necessary for integration into the francophone milieu; 5/ providing French-language training; 6/ placing immigrants in jobs; 7/ recruiting immigrants; and 8/ defining the criteria and their weights for entry. 127

Despite those accomplishments, the feeling among some members of the Bourassa government as well as members of the Parti Québécois was that Quebec still needed to accomplish the eighth task listed above in order to perform a larger and more authoritative role in the selection of immigrants.
That would become the goal that the Parti Québécois set for itself when it assumed power. As the next section of this chapter reveals, within two years in power it achieved that goal after some intensive bilateral negotiations with the Trudeau government.

Before examining those negotiations involving the Parti Québécois and the Trudeau government, it must be noted that the month before the Quebec provincial election held in November 1976, all of the provinces, largely on the initiative of the Bourassa government, reminded the federal government that they wanted "a greater degree of provincial involvement in immigration."\textsuperscript{128} This was one matter in which Quebec's interests coincided with that of other provinces at that particular time. However, as the next chapter will reveal, they differed on what they considered to be the appropriate degree of provincial involvement. For its part the federal government interpreted the request for greater provincial involvement in immigration as one for amending section 95 of the constitution. In a letter to the provincial premiers Prime Minister Trudeau reiterated his position that changes to the division of powers in all fields, including immigration, would have to wait until after patriation of the constitution.\textsuperscript{129} Patriation would not occur until 1982. In the interim, the Trudeau government negotiated and concluded another major immigration agreement with its Quebec counterpart.
The Lévesque Government

The Quebec government's efforts to seek a veto in the selection of immigrants did not end with the signing of the Andras-Bienvenue agreement. Just one year after that agreement was signed, and before federal and Quebec officials had even finalized the procedures related to its full implementation, the federal government was forced back to the negotiating table by the newly elected Parti Québécois government. The Lévesque government hoped to succeed where its predecessor had failed -- obtaining a veto in the selection of immigrants. As well, it also wanted greater control in planning and managing settlement programs for immigrants.

The decision of the Lévesque government to enter into negotiations for an immigration agreement that would authorize it to perform key roles in immigration was, like that of its predecessor, largely rooted in its material and non-material interests. Their calculations were essentially the same except for one notable difference involving their respective system development interests. Whereas the Bourassa government had sought to increase the province's roles in immigration as a means to make minor modifications to the alignment of roles within the existing federal system, the Lévesque government had sought it as a means to test and demonstrate the feasibility of sovereignty-association. Indeed, if all went according to plan, it
would constitute a significant step in that direction.

The Parti Québécois had made increased provincial authority in immigration a key element in its 1976 election platform. An expanded role in immigration served as an example of what it meant by increased autonomy for Quebec either within the federation as presently constituted or via sovereignty-association. The importance of additional autonomy within the existing federal system is noted in a position paper on human resource development issued by that government in the fall of 1977:

... il importera que la politique d'immigration soit conséquent avec la politique d'autonomie du Québec dans le cadre constitutionnel actuel. L'importance de l'immigration pour l'avenir de la société québécoise justifie pleinement la nécessité pour l'État québécois de se doter de tous les instruments susceptibles de lui assurer la maîtrise de l'immigration qui se destine sur son territoire. Plus concrètement, le Québec doit jouer un rôle déterminant dans toutes les phases du processus migratoire, sauf en ce qui concerne l'admission qui demeure une prérogative fédérale.¹³⁰

The acknowledgement of federal authority in the admission phase in the last sentence of that statement reflects the crucial distinction that would be made both by the federal and Quebec governments in their negotiations for a provincial role in the selection, but not admission, of immigrants.

Just one month after the Parti Québécois assumed power the new Minister of Immigration, Jacques Couture, publicly
announced that his government intended to renegotiate the Andras-Bienvenue agreement in order to increase the scope of its role in the selection of immigrants destined to that province. As well, he indicated that his government intended to post its immigration officers in provincial, rather than federal offices abroad in order to ensure that newcomers would know that Quebec was predominantly a French society.\textsuperscript{131}

Approximately four months later, in March 1977, while outlining the Quebec government's reaction to the proposed federal immigration act, Bill C-24, Couture said that Quebec wanted complete control both over the selection and the settlement of all immigrants destined to that province because the proposed federal selection criteria that would be established pursuant to the new Act could not "take into account the economic, cultural and demographic disparities of the provinces."\textsuperscript{132} Shortly thereafter, the federal and Quebec governments entered into negotiations on Quebec's authority in the selection and settlement of immigrants. Those negotiations lasted for nearly one year.

The settlement issue became controversial when the Quebec government decided that English language classes would no longer be taught in the province's language instruction centres for immigrants and that provincial, rather than federal, officials should select immigrants for the language courses.\textsuperscript{133} The decision to eliminate English
language classes constituted an important element of its strategy to facilitate the integration of immigrants into the francophone community. The other elements of that strategy would emerge in its language legislation, Bill 101, which not only compelled the children of new immigrants to attend schools in which French was the language of instruction, but compelled employers to give greater prominence to French in their work environment.\textsuperscript{134} The Quebec government wanted control over the selection and placement of immigrants in language training classes because it felt that federal officials were not selecting and referring immigrants who were proficient in English to the COFIs because, in their judgement, such immigrants could find employment in that province without taking such classes.

In response to Quebec's initiatives and demands, the federal minister of immigration, Bud Cullen, asserted that although his government was willing to review the role of federal and provincial officials in the selection of students for the language classes, it wanted the COFIs to resume offering English language classes. Eventually a compromise was reached. The Quebec government agreed to offer English language classes for immigrants who in the opinion of federal employment counsellors had to be proficient in English to obtain employment, and the federal government agreed to let provincial officials select
students for the French language classes.\textsuperscript{135} This was essentially a compromise between the Lévesque government's language policy of unilingualism and the Trudeau government's language policy of bilingualism.

Negotiations on the question of Quebec's role in the selection of immigrants destined to that province were much more intense than those on language classes for immigrants. The negotiations on the former commenced in May 1977 when the Quebec government submitted a proposal to the federal government both on the nature and scope of the province's involvement in the selection process, and also to abolish the nominated class (i.e., immigrants nominated and sponsored by family members).\textsuperscript{136} The centrepiece of its proposal for an increased provincial role in the selection process was the recommendation that the federal and Quebec governments jointly develop and apply the point system to candidates destined to that province. More specifically, it proposed that of the total 100 points allotted under the selection criteria Quebec would be responsible for defining and applying 55 points and the federal government would be responsible for the remaining 45 points.\textsuperscript{137} Under this scheme Quebec would be responsible for defining and applying most of the key criteria such as knowledge of French, personal adaptability, educational background, occupational demand, and arranged employment, and the federal government would be responsible for criteria such as ability to support
oneself, age, health, and so on. Equally important, it proposed that in order to maximize the ability of the federal and provincial governments to select the type of immigrants that were needed to achieve various social and economic development objectives it was necessary to abolish the nominated class which had been established under the 1967 Immigration Act.\textsuperscript{138} Its rationale for doing so was to end the trend whereby the majority of nominated persons, like their nominators, generally integrated into Quebec's anglophone, rather than francophone, community.

In responding to the Parti Québécois government's demands for a key role in the selection of immigrants the federal government initially adopted the same position it had taken with the Bourassa government. The day after Quebec submitted its proposal, the federal Minister of Immigration, Bud Cullen, stated in the House of Commons that while the federal government was willing to make the point system more sensitive to provincial preferences, it would not let a province either award points in the selection process or to veto the admission of immigrants. As well, he indicated that the federal government was not willing to abolish the nominated class in the immigration regulations. That position was reiterated by Prime Minister Trudeau in the House of Commons in response to questions from the official opposition on that issue.\textsuperscript{139}

In reaction to the position enunciated by Prime
Minister Trudeau and the federal Minister of Immigration, Premier Lévesque resorted to utilizing some of the political resources at his disposal in an effort to constrain them to accede to his government's demands for sharing the point system. He did so by tapping into sovereignists and autonomist sentiments among a significant portion of the Quebec population. The day after Trudeau made his statement in the House of Commons, Lévesque indicated that in the face of such resistance on the part of the federal government to the province's demand for a key role in a field of shared jurisdiction, the only way for Quebec to achieve control over immigration would be through sovereignty-association.\textsuperscript{140}

Premier Lévesque's negotiating tactic had a significant effect on the federal government. Later that same day Prime Minister Trudeau indicated that the federal government was not being unreasonable and that it was prepared to consider all proposals presented on selecting immigrants including a constitutional amendment on this matter.\textsuperscript{141} A few days later the federal Minister of Immigration had also softened his stance on the idea of sharing the point system by indicating that "the point system was not engraved in stone" and that some flexibility to authorize Quebec to participate in the selection system was possible.\textsuperscript{142} The threat that sovereignty-association posed to the federal government's system development interests had paid dividends for the
Lévesque government.

Later that week the federal and Quebec immigration ministers met in an attempt to resolve the selection issue. During that meeting they reached an agreement in principle that both governments would be involved in the selection process. However, their statements to the media after the meeting suggest that they had not agreed on precisely how they would share the point system. Whereas the Quebec minister indicated that the arrangement they had considered would entail a sharing of the point system on a 50-50 basis, the federal minister indicated that the question of sharing the point system was still "open to discussion." In what can only be seen as an effort to encourage his provincial counterpart to reconsider his demand for sharing the point system, the federal minister also indicated that the arrangement proposed by the Quebec government might create administrative delays that could hamper the province's efforts to attract immigrants.

At that meeting the federal and Quebec ministers decided that a bilateral joint committee of federal and provincial officials would be established to study alternatives for joint involvement in the selection process. In its study that joint committee considered two major alternatives to point-sharing under a single point system. The first was a provincial sponsorship system under which applicants would receive bonus points if they were sponsored
by the Quebec government, and the second was separate federal and provincial selection criteria.

Ultimately the federal and Quebec governments opted for the latter. Their decision to do so was based both on practical considerations regarding developing and applying their respective selection criteria without undue interference by the other government, as well as symbolic political considerations. The federal government believed that establishing separate point systems was desirable because it allowed it to apply its own selection criteria uniformly to candidates regardless of their province of destination.145 The Quebec government felt that it was desirable because it would be able to point to its selection criteria as visible proof of its ability to conduct an immigration selection program both within the existing federal system and also under sovereignty-association.146 Once they had agreed to utilize two separate sets of selection criteria, they still had to agree on matters such as, for example, the broad principles which had to be respected in developing and applying Quebec's selection criteria, as well as how the federal and Quebec point systems would be applied to various classes of immigrants and refugees. Their decisions on these issues constitute the key provisions in the Cullen-Couture agreement signed on February 20, 1978.

The Cullen-Couture agreement gave Quebec a key role in
the selection of various classes of immigrants and refugees, the admission of certain categories of visitors applying for visas from abroad. The joint selection process for these various immigrants, refugees, and visitors is quite detailed and complex. For all intents and purposes of this study it suffices to highlight the general features.

First, in the selection of all independent immigrants (except assisted relatives) and refugees applying from abroad Quebec was granted both a positive and negative veto. In other words, any such applicants that met Quebec's standards under its selection criteria would be admitted even if they did not meet the standards under the federal government's selection criteria. However, any such applicants that did not meet Quebec's standards under its selection criteria, would be denied direct entry into Quebec even if they met the standards under the federal government's selection criteria.

Second, in the case of assisted relatives Quebec was only granted a positive veto. Thus, applicants that met the standards under Quebec's selection criteria, but not the standards under the federal criteria, would be granted a visa to enter into Quebec. However, Quebec could not block the admission into that province of assisted relatives that did not meet Quebec's selection standards but met the federal selection standards.

Third, in the case of various classes of visitors,
namely temporary workers, students, teachers, and persons seeking medical attention in that province, Quebec was granted a negative veto. Thus, Quebec could refuse its permission for federal officers to grant visas to such applicants. The agreement stipulated that: "Canada will not admit a temporary worker, a student, a teacher, or persons seeking medical treatment in Quebec, unless Quebec has given its agreement to these applications." However, such candidates would not automatically be granted a visa to enter Quebec simply on the basis of approval by the Quebec government. The federal government retained the right to reject the applications of such candidates. The only categories of applicants for which Quebec was not authorized either to select or to determine whether they should be issued visas were first family class members irrespective of whether they applied from abroad or from within Canada, and second independent immigrants and refugees applying for visas from within Canada. Evidently Quebec was not interested in participating in selecting family class immigrants both because it felt that rejecting such applicants could prove politically problematical, and also because it anticipated that once it began selecting independent immigrants, at some point in the future the majority of members of the family class would be relatives of the independent immigrants which it had selected and helped to integrate into the francophone community.\(^{148}\)
At that time the Quebec government also did not demand the authority to select candidates applying from within Canada because it was understood that under the Immigration Act which was about to come into force, immigrants seeking a visa had to apply from outside Canada. As discussed in a subsequent section of this chapter, however, authority to select independent immigrants and refugees applying from within Canada became an issue in the 1980s as the federal government, faced with an influx of refugee claimants and other aliens, was constrained to process significantly more applicants than had been envisioned in 1978 when the Immigration Act came into force.

There were two other significant provisions in the Cullen-Couture agreement. The first authorized Quebec to set and enforce standards for sponsors of assisted relatives. This was an important provision both for Quebec and the federal government. For its part Quebec could use this authority as a means to influence indirectly the assisted relatives movement. Quebec’s standards were quite important because, in the absence of federal standards for sponsors in that province, federal officials could only grant assisted relatives bonus points based on Quebec’s determination of whether their sponsors met the basic standards. This authority was also important in another respect. Quebec now had the authority to enforce the obligations of sponsors in the case of sponsorship.
breakdown. The provincial government hoped that by using this authority it would be able to keep many immigrants off provincial social assistance by developing a more effective enforcement program than the federal government had in place in ensuring that sponsors lived up to their obligations. For its part the federal government also favoured this arrangement because, it could extricate itself from the verification of the suitability of sponsors, the enforcement of sponsor's obligations, and ultimately providing social assistance for immigrants in the case of sponsorship breakdown. All that would become the responsibility of the provincial government.

The other significant provision in the Cullen-Couture agreement required the Quebec government to ensure that "immigrants acknowledged by Quebec to be indigent [would] have access, from their arrival, to Quebec social services."14 For its part the Quebec government did not object strongly to assuming such costs. That was a small price to pay for the practical and symbolic value of the Cullen-Couture agreement for the Quebec government at that particular time. The federal government, however, viewed this as an important trade-off for the authority which the province was granted in the selection of independent immigrants. It was a way of reminding Quebec, as well as the other provinces, that selection authority would be linked to financial responsibility.
The federal government's decision to link selection authority and financial responsibility was not merely predicated on financial considerations of reducing its share of the costs for immigration matters. The federal government saw this as a means to reduce the possibility that other provinces would demand the same authority as Quebec if they realized that they too would have to assume added financial responsibilities. Reducing the possibility of other provinces seeking the same arrangements as Quebec was an important objective for the federal government. It felt that if Quebec was the only province with a role in the selection of the independent class of immigrants destined to that province, any resulting administrative problems would be manageable. However, if other provinces were to perform the same role as Quebec in the selection of immigrants the entire process would become extremely complicated and potentially chaotic. The federal government was not the only one concerned about that possibility; its concern was shared by most, if not all, its counterparts in various provinces, including Quebec. The legacy of the problems of coordination which emerged in immigration nearly a century earlier when all the provinces had immigration agents abroad competing with each other for immigrants was not forgotten.

The signing of the Cullen-Couture agreement in 1978 was important both for the Lévesque and Trudeau governments,
albeit for different reasons. In both cases, however, its importance stemmed from those governments' perception of how it served their respective regime and non-regime. The Parti Québécois government felt that in pressing for the provisions in the Cullen-Couture agreement it would benefit regardless of the outcome. If the federal government acceded to its demands for a realignment of roles, it would constitute a significant victory in the continuing struggle for provincial autonomy on the march towards sovereignty-association. If the federal government rejected its demands, the Lévesque government also stood to win because it would provide additional concrete proof that the federal government was intransigent and that Quebec could not realize its aspirations of cultural and economic development within the federal system. It was understood that since immigration was an area of concurrent jurisdiction, politically it would be very difficult for the federal government to justify rejecting the provincial government's demands on constitutional grounds alone. If the federal government acceded to the demands of the provincial government any resulting agreement would serve as a significant and concrete example both of the type of administrative arrangements that Canada and Quebec could adopt under a system of sovereignty-association, and also how Quebec's power within the existing federal system was augmented by pressing for greater autonomy and ultimately
sovereignty-association. For the Lévesque government, therefore, the field of immigration provided an ideal niche in which it could demonstrate to its supporters that the battle for sovereignty-association had commenced. This is evident in a policy paper issued by Quebec's Department of Immigration in the fall of 1977 which underscored the importance of linking immigration policy with a policy of autonomy even within the existing federal system.\textsuperscript{152} It is also evident in Premier Lévesque's pronouncement made just three weeks prior to the signing of the immigration agreement in 1978: "There is no self-respecting society that knows its best interests and has a self-identity that allows its immigration to be in the hands of others."\textsuperscript{153} Those sentiments were echoed in the annual report of Quebec's immigration department which asserted that the agreement marked an "important step towards full autonomy for Quebec in the field of immigration."\textsuperscript{154}

While touting the agreement as an important step towards full autonomy in the field of immigration, however, the Lévesque government was somewhat concerned that if too much importance was given to the significance of the agreement as a major gain within the existing federal system it would help to substantiate the arguments that would eventually be made by some journalists inside and outside Quebec as well as members of the federal cabinet such as Marc Lalonde, Minister of Federal-Provincial Relations, who
suggested that it was "proof of the flexibility in the present system," and members of the Quebec Liberal Party such as John Ciaccia, that it was "...proof that the interests of Quebec can be protected and promoted in our federal system." The concern of the Quebec government is clearly evident in statements made both by Jacques Couture, Quebec's Minister of Immigration, and Claude Morin, Quebec's Minister of International and Intergovernmental Affairs upon reaching the agreement in principle with Ottawa. Morin argued that Quebec was merely asserting itself in a field in which it had a right to do so under the constitution and this should not be seen either as a major gain for Quebec or as a major reform of the federal system. In his words: "...lorsqu'on fait reconnaître qu'on a le droit d'agir dans un domaine où notre droit constitutionnel d'agir existe, il ne faut pas faire croire qu'il s'agit là d'un gain fantastique et que l'on vient à toutes fins de refaire le fédéralisme." Couture suggested that the gains his government had made in immigration "was only a beginning" and that only with political sovereignty would Quebec receive all the powers it needed in this policy field, as well as others, to achieve its social and economic development objectives.

The decision of the federal government to enter into negotiations on an immigration agreement with the Lévesque government was rooted both in its regime and non-regime
interests. In terms of its regime interests the Trudeau government felt that given the increase in autonomist and sovereignist sentiments in Quebec, rejecting the Lévesque government’s demand for such an agreement could have had a negative effect both on its electoral success in that province in the next federal election and on the regime-legitimacy of the federal government in the eyes of Quebecers.

The federal government was also concerned about the effect that rejecting the Quebec government’s demands for an agreement would have on its non-regime interests and particularly its economic and system development interests. In terms of its economic development interests it was concerned that unless it demonstrated that it could work with the Parti Québécois government, Canada’s economic profile would have been adversely affected and, in turn, this could have had a negative effect on, among other things, the Canadian dollar as well as foreign investments not only in Quebec but also in other provinces.

In terms of its system development interests the federal government felt that, at particular point in time, appeasing both the Lévesque government as well as sovereignist and autonomist sentiments in that province was essential for the harmony and unity of the country. A negative response, it concluded, would have not only exacerbated tensions between itself and the Lévesque
government, but could have also intensified autonomist and sovereignist sentiments in Quebec.

Given those considerations, the federal government decided that it should not engage in a jurisdictional dispute regarding the selection of immigrants or the provision of language classes for immigrants. Hence, despite some misgivings about entering into negotiations with the Parti Québécois government on this issue because it had no guarantees of what demands would be made or the political ramifications of such negotiations, ultimately the Trudeau government decided that it had to take the risk. It had to demonstrate to Quebecers, to the rest of the country, and to the international financial markets that the election of the Parti Québécois would not disrupt the governance of the federation nor lead to its disintegration. Its inability to make significant progress on other bilateral issues with the Parti Québécois government led the federal government to conclude that it had to take a risk in the field of immigration.

Given those considerations, the traditional concerns shared both by federal politicians and bureaucrats regarding the effect that extensive provincial involvement in various facets of immigration could have both for planning and managing the immigration program as well as for external relations, were overshadowed by the imperatives which stemmed from its regime and non-regime interests noted
above. Consequently, the federal government resigned itself to the fact that it would have to grant a self-proclaimed separatist Quebec government a more substantial role in the selection phase of the immigration process than it had been willing to accede to previous Quebec governments. Prime Minister Trudeau also had to resign himself to the fact that, contrary to his government’s efforts when it first assumed power in 1968 to achieve a greater degree of symmetry in various fields of jurisdiction, in the field of immigration asymmetry had increased steadily since 1971.

The Trudeau government’s decision to accept such asymmetry in the alignment of roles within the field of should not be seen as incongruous with Prime Minister Trudeau’s decision to reject the recommendation of the Pepin-Robarts Task Force on National Unity for asymmetry in the division of constitutional powers as a means to accommodate Quebec within the existing political system. Instead, it reflects a willingness of Prime Minister Trudeau and his government to accept some asymmetry, however reluctantly, at the de facto or administrative level, but rejecting it at the de jure or constitutional level. In fact, they accepted the former in an effort to preclude the latter. As shall be discussed in subsequent sections of this chapter, his opposition to the asymmetry at the de jure level would continue to manifest itself in his opposition to
Quebec’s demands during various rounds of constitutional reform initiatives by his government during its last term in power, as well as by the Mulroney government.

The federal government’s decision to authorize the Lévesque government to exercise a veto in the selection of immigrants was criticized publicly by some members of the Progressive Conservative Party, including its immigration critic, Jake Epp, who argued that Canada should not negotiate any transfer of power to Quebec in immigration or any other field until the question of the province’s independence was settled. ¹⁶¹ Echoing the views of some other prominent members of the party and most notably John Diefenbaker, Epp also suggested that acceptance of Quebec’s proposals was “tantamount to recognizing sovereignty.” ¹⁶² The Trudeau government also did so despite some concerns expressed in editorials by journalists outside Quebec regarding the potential balkanization of the immigration system. ¹⁶³ Such concerns and criticism were by no means shared by all commentators outside Quebec. While some media commentators shared the views of the official opposition, others were sympathetic to the federal government’s belief that it was necessary to demonstrate that the Canadian federal system was sufficiently flexible to accommodate Quebec in order to preclude sovereignty-association or independence. ¹⁶⁴

The foregoing analysis of the negotiations on the
Cullen-Couture agreement reveals that Quebec's reasons for demanding key roles in the immigration process and the federal government's reasons for acceding to those demands extended well beyond considerations regarding the implications for the formulation and implementation of federal and provincial immigration policies and programs. Both governments had broader political considerations in mind. As Vineberg pointed out:

The federal government wanted to demonstrate that, in the realm of immigration, federalism could work and this meant giving Quebec substantial say in immigration. The Quebec government, for its part wanted more authority in all spheres related to external affairs. As a result...the goals of the two parties were compatible, though for different reasons.\textsuperscript{165}

The validity of Hawkins' perceptive observation that "immigration serves most brands of constitutional thinking in Quebec" and that "it is as comfortable a concern or occupation for separatists as it is for federalists," is clearly evident in the negotiations on the Cullen-Couture agreement.\textsuperscript{166}

The fact that by the end of those negotiations the federal government had to concede more authority to Quebec than it had contemplated at the start concerned federal officials in the departments of Immigration and External Affairs more than either their counterparts in central agencies such as the Federal-Provincial Relations Office and the Privy Council Office or the members of the federal
Cabinet. While some officials in the departments of Immigration and External Affairs were concerned about potential problems of coordination, others were concerned about whether the federal Minister of Immigration had the statutory authority to enter into such an agreement and more importantly to give Quebec's selection criteria paramountcy over the federal selection criteria in the selection of certain immigrants. As Vineberg pointed out: "In the outcome, the agreement did go beyond what even the legislation drafters anticipated, with the result that there was considerable heartburn over statutory authority for some of the implementing regulations."^{167}

Any concerns that the federal government may have had regarding the possibility that it had granted too much authority to Quebec unnecessarily were significantly reduced in light of the importance that would be attached to the agreement in the 1980 sovereignty-association referendum debate. During that debate the agreement helped the federal government pursue its system development interests, namely the facilitating the continuance of the Canadian federal system and the territorial integrity of Canada. More specifically, it provided the federal government, the Quebec Liberal Party, and others on the 'No' side of the 1980 referendum with a tangible example to substantiate their arguments that the institutions of the Canadian federal system were flexible enough to accommodate key demands
emanating from Quebec without having to resort to sovereignty-association or outright independence. The leader of the Quebec Liberal Party, Claude Ryan, for example, referred to that agreement on several occasions as evidence of how Quebec's aspirations could be met within Confederation. The agreement was also mentioned in the Quebec Liberal Party's 1980 position paper on constitutional reform as an example that federalism worked:

...the Cullen-Couture Agreement of 1978, related to the selection and establishment of immigrants. Such agreements indicate that Canadian federalism has been able to evolve in this field and that a radical reallocation of jurisdiction over immigration is uncalled for. We propose that, in general, the existing concurrent jurisdiction in matters of immigration be maintained.168

The position taken by the Quebec Liberal Party in its Beige Paper regarding the division of constitutional powers in immigration was good news for the federal government. It provided some assurance that in the ongoing negotiations on constitutional reform after the referendum, at least one of the major parties in Quebec would not be pressing for a constitutional amendment to the immigration powers. The accounts of the negotiations that produced the Constitution Act, 1982 suggest that the federal government was also not pressed by the Parti Québécois for such an amendment. However, as shall be discussed below, in 1985 it would become a condition of both the Parti Québécois and Liberal
government in that province for signing any constitutional accords with the federal government and the other provinces. In the interim, the Parti Québécois government tried to press the federal government for some adjustments to the Cullen-Couture agreement.

By the early 1980s, before the procedures for implementing the Cullen-Couture agreement had been fully developed, the Lévesque government was already indicating that it wanted to expand its role both in the selection and settlement of immigrants. In the selection process it demanded a broader role in the selection of independent immigrants and refugees applying from within Canada. Under the Cullen-Couture agreement Quebec could only exercise its authority in the selection of independent immigrants and refugees who applied from abroad. This issue arose because there were many more immigrants and refugees seeking and being granted visas than had been envisioned in 1978. 169

In many cases such visas were obtained as a result of the periodic 'administrative reviews' and 'general amnesties' decreed by the federal minister of immigration for foreigners who had not subjected themselves to the standard selection and admission process. Some statements made by the Quebec Minister of Immigration, Gerald Godin, suggest that in addition to a say in issuing visas to such individuals, the provincial government was also interested in altering the regulations to allow certain persons who
were in the province on visitor visas to be able to apply for a permanent resident visa from within Canada.\textsuperscript{170}

Between 1981 and 1985 the Lévesque government also renewed the demands it had made in 1977 for full control in planning and managing settlement services in Quebec. At this time it also demanded that the federal government provide the provincial government with approximately $50 million in compensation for various services and programs related to settlement.\textsuperscript{171} This request was part of the provincial government's overall strategy to supplant the federal government in planning and managing services, with compensation for doing so, which in other provinces were planned, managed, and funded, either in full or in part, by the federal government. Such a strategy was by no means novel; it had been employed by various Quebec governments in other policy fields since the late-fifties.\textsuperscript{172}

Despite its promises during the 1980 referendum campaign on sovereignty-association to increase its efforts to accommodate Quebec's aspirations for greater autonomy within the Canadian federal system, the Trudeau government refused to accede to those demands from the Lévesque government. Its reasons for doing so were rooted largely in two of its material interests, namely regime autonomy and regime legitimacy. Its decision not to accede to Quebec's demand for authority to select immigrants and refugees from within Canada was based on a concern that doing so would
seriously compromise the ability of the federal government to deal with such cases on a uniform, equitable and efficient basis across the country. Federal officials felt that granting Quebec such authority would unduly complicate the federal government’s ability to deal with refugee claimants and to implement administrative reviews and general amnesties for certain categories of foreigners residing in Canada illegally. The federal government felt that it was on firm constitutional footing to refuse Quebec a role in the selection of immigrants and refugees applying from within Canada given that under section 91(25) control of aliens is an exclusive federal responsibility.\(^{173}\)

The federal government refused to withdraw from the provision of settlement services and to compensate the Quebec government for several major reasons. First, it felt that it would compromise its ability to influence the nature and standards of settlement services in that province. This particular concern stemmed from the decisions of the Lévesque government both to reduce the availability of English courses in its COFIs and to enact Bill 101 which had implications for immigrants and their children in terms of their integration into the francophone community. Federal officials felt that if Ottawa withdrew from planning and delivering settlement services the federal government’s ability to establish any parallel settlement programs that it deemed essential for, among other things, increasing the
employability of immigrants in Quebec both in that province and in the rest of the country would be compromised.

Second, the Trudeau government felt that such a withdrawal could also result in a loss of its profile and legitimacy among new immigrants, ethnic associations, and agencies that were involved in providing immigrant settlement services. This issue was particularly important to Prime Minister Trudeau at that time as he began lamenting what he perceived as a loss of credit that the federal government had incurred because federal funding was not visible in shared-cost programs.¹⁷⁴ The federal government's regime-legitimacy and system development interests in this area articulated by Trudeau after he retired as a parliamentarian but re-entered the political arena to oppose the Meech Lake constitutional accord. In 1988 in a presentation to the Senate Committee on the Meech Lake Accord he criticized the provision to give Quebec full control over settlement services with compensation as follows:

The most offensive clause [in the Meech Lake Accord] is the one that says Canada will withdraw, with reasonable compensation, services for the reception and integration of all foreign nationals wishing to settle in Quebec. Well, if you have immigration officials who are determined to make sure that everybody coming to Canada has a conception of Canada as being a pact between provinces, as being a country where only French should be spoken in one province and only English in the others, you could have a situation in which the
national will is thwarted. Once the provinces got into that area of reception and integration of all foreign nationals, and are being paid to get into it, they are not going to get out even if the federal government says "Tut, tut, tut, now you are not teaching the love of Canada to these people; you are teaching the love of western alienation, or whatever it is."

If immigrants are going to be taught the theory of provincial sovereignty, it will not make for a strong Canada. An immigrant to a province is an immigrant to Canada, and Canada has a moral right not to give up its jurisdiction in that area. 175

Third, the Trudeau government felt that any arrangements to compensate Quebec for planning and delivering settlement services could lead to a loss of federal control on the cost of such services and this, in turn, would likely increase the amount of federal funding for such services. A particularly important issue both for the provincial and federal governments at that time was which of them should assume the costs for the settlement needs of refugee claimants in that province. The issue became a point of contention between them in October 1982 when the federal government suspended its program for providing social services for refugee claimants awaiting a decision on their status in Canada. 176 A month later, the Quebec government decided to provide provincial social assistance to such claimants. In an effort to keep track of the beneficiaries, many of whom did not have any other official documentation of their identity, in April 1983 the
Quebec government began issuing them its Certificats de Sélection.177

Fourth, the federal government was concerned that acceding to the Quebec government's demands would likely result in similar demands from other provinces. The prospect of that happening was evident in a document produced by a committee of provincial and territorial officials established to examine options for federal-provincial collaboration in settlement. That document concluded that provinces were to have the determinant role regarding the type, level and scope of settlement services, and the federal government's role would be limited to funding such services:

The federal government has responsibilities relating to financing which can be exercised through a number of options (e.g., cost-sharing, cost-recovery, transfer payments, purchase of service, contributions, grants, complementary or joint funding, transfer of tax dollars for provincial administration). Depending on the particular circumstances in a given province or territory, provinces/territories may adopt a number of options regarding funding (e.g., total funding, cost-sharing, complementary or joint funding, funding with cost recovery, purchase of service, grants, contributions, administration of transferred federal funds).178

It was the last option, namely provincial administration of transferred funds, that the Quebec government favoured and requested.

During the early 1980s, the Trudeau government's
concerns regarding a federal role both in providing immigration settlement services and in managing immigration flows were tied to the broader issue of the relationship between the federal and provincial governments within the federal system which had become a major preoccupation of the Prime Minister Trudeau at that particular time. Such concerns were rooted in the federal government's regime-capacity and regime-legitimacy interests.

By the early 1980s, Prime Minister Trudeau became increasingly concerned with what he viewed as the massive decentralization of power from the federal government to the provinces since the early-sixties. This consideration not only led Prime Minister Trudeau to criticize Joe Clark's "community of communities" view of Canada but, in the face of continuing pressures for transferring more authority to the provinces during the negotiations which led to the Constitution Act, 1982 it also led him to proclaim that cooperative federalism was dead. He did so during a federal-provincial conference held in February 1982, just four months after he had signed the constitutional accord with the premiers of all provinces except Quebec's premier Lévesque. Trudeau reiterated his views at a press conference later that month when he asserted that the federal government would strongly resist any further shifting of powers or resources to the provinces. On that occasion he also expressed concern about the lack of
political credit that the federal government received for its financial contributions to various programs and stated that his government was tired of transferring billions of dollars to the provinces only to get a "kick in the teeth" for it. 161

Given this general disposition towards federal-provincial relations, together with the results of the Quebec referendum on sovereignty-association, Prime Minister Trudeau did not feel the same imperatives to accede to Quebec's demands for a greater role in immigration that he had felt in acceding to its demands in 1978. This is particularly true of the period after Premier Lévesque refused to sign the 1982 Constitution Act. In the absence of a significant increase in support for sovereignty-association despite the bitterness among many autonomists and sovereignists over the treatment that the Lévesque government's proposals for constitutional reform had received from the federal government and the other provinces, the Trudeau government felt little compunction to renegotiate the Cullen-Couture agreement in order to give Quebec greater authority in the selection process or to compensate it for providing settlement services.

The federal government's stance on this and other issues was facilitated by the fact that the Lévesque government was in a state of disarray after the loss of the referendum and particularly after the constitutional reform
process which produced the Constitution Act, 1982. Given
the internal strife which precipitated numerous resignations
from cabinet, the Lévesque government was unable to
constrain the Trudeau government to accede to its demands on
any major issue, including immigration.\textsuperscript{182} In what some
might view simply as a case of revenge and others as a case
of effective utilization of its resources to advance its
interests, in the 1984 federal election the Lévesque
government lent both its public support and its party's
electoral machine to the Progressive Conservative party
under the leadership of Brian Mulroney. That support helped
the Progressive Conservative party capture the largest
number of seats in that province since Confederation and win
the 1984 election with an overwhelming majority.

In light of the support which it had extended to the
Progressive Conservative party during the election campaign,
the Lévesque government saw the 1984 election victory of the
Mulroney government as an opportunity to arrive at an
agreement on the selection of immigrants from within Canada
and on full provincial control of settlement services with
compensation. As well, it saw it as an opportunity, to
obtain a constitutional amendment which granted Quebec
paramountcy in the field of immigration. Its hopes were
raised because during the 1984 federal election campaign a
key plank in the Progressive Conservative party's platform
was the promise to return to a cooperative approach in its
relations with the provinces and also to bring Quebec into the 'constitutional family' by entering into negotiations with the Quebec government for arrangements that would be acceptable to that province. Thus, in May 1985 the Parti Québécois government, in its last bid for constitutional reform prior to losing power, issued a position paper which explicitly stated that a new constitution should recognize provincial paramountcy in the selection and settlement of immigrants. This, it argued, was essential in order to preserve the distinct socio-cultural character of Quebec:

The Constitution should enlarge upon the Cullen-Couture agreement of 1978 by confirming the paramountcy of Quebec's powers in the matter of selection, and by extending that paramountcy power to the integration and settlement of immigrants. These powers are of fundamental importance because it is upon their exercise that, among other things, the preservation and consolidation of the distinct character of the people of Quebec depends.

That document acknowledged that while such powers in immigration continued to be important in pursuing that province's demographic and cultural objectives they also had "important economic repercussions." By this time the Quebec government began to devote considerable attention to the economic implications of immigration. Its decision to do so was in reaction to the loss of investment capital which Quebec had incurred as a result of the election of the Parti Québécois, the referendum on sovereignty-association,
and the recession of the early 1980s. After the referendum the Quebec government was more intent than ever to attract business immigrants to that province and it made a concerted effort to publicize its initiatives and the results of those initiatives within Quebec.\textsuperscript{186} During its last year in power the Parti Québécois government started pursuing business immigration more vigorously than ever before. In doing so, language proficiency in French became a secondary consideration.\textsuperscript{187} The importance which the Lévesque government attached to business immigration at that time in evident in the fact that its Immigration Minister, Gérald Godin, travelled abroad in an effort to promote business immigration. His decision to do so stemmed from what he described as a "disgusting" campaign by other provinces to tarnish his government's and his province's image among potential business immigrants.\textsuperscript{188} As shall be discussed in the next chapter the other provinces countered that under the Cullen-Couture agreement Quebec had achieved an unfair advantage in attracting and processing such immigrants.

The foregoing statements and initiatives by its Minister of Immigration suggest that the Quebec government's desire to perform key roles in planning and managing immigration and to seek a constitutional amendment that would guarantee it such a role was based as much on its economic development interests as on its social development interests.

Shortly after it issued the aforementioned position
paper on constitutional reform, the Parti Québécois led by Pierre-Marc Johnson lost the 1985 election to the Quebec Liberal party led by Robert Bourassa. Although the provincial government changed, the basic demands for a more substantial and constitutionally entrenched role in immigration did not. As the next section reveals, the Bourassa government, like its predecessor, would also demand authority both to select immigrants and refugees applying for permanent resident status from within Canada, and to plan and manage settlement services in Quebec with compensation from the federal government. Moreover, it would also demand authority to determine the proportion of Canada’s annual immigrant flows destined to Quebec, and the constitutionalization of bilateral federal-provincial immigration agreements.

The Bourassa Government

The return to power of Premier Robert Bourassa in 1985, nine years after he lost power in 1976, marked the start of another important episode of negotiations and agreements between the federal and Quebec governments which included the so-called Immigration Clause in the Meech Lake Accord and the Canada-Quebec immigration agreement of 1991. Throughout that era he continued to press for the dual objective of cultural sovereignty and profitable federalism. Evidence that cultural sovereignty for Quebec remained a
major objective in Premier Bourassa's mind is evident in the following statement contained in an article he wrote in 1978, the same year that the Cullen-Couture agreement was signed:

Whatever the future of Canada and Quebec, there are some changes which seem necessary because of the special cultural situation in Quebec. . . . Canada requires a political system that is sensitive to its complexity. Quebec's economic needs and Quebec's cultural problems are pulling in opposite directions. No easy solution exists. The status quo is not acceptable. Neither is "sovereignty association," as we have understood it so far. It is clear to me, however, that Quebec's sovereignty in cultural affairs must be achieved for the maintenance of Quebec's identity in a greater Canada.189

The foregoing statement underscores the essential difference between the Bourassa government and its predecessor regarding their respective system maintenance interests. The Bourassa government had a greater vested interest in the maintenance of the political and territorial unity of the Canada. The evidence presented in the remainder of this chapter, however, suggests that such a difference did not have a significant effect either on the demands or the negotiating tactics of those two governments in the field of immigration. The negotiations between the Bourassa and Mulroney governments between 1985 and 1991 revolved around two major interrelated issues, revising the Cullen-Couture agreement and constitutionalizing it. The objective in the
remainder of this chapter is to analyze those negotiations and the resulting agreement.

When it assumed power in 1985 the Bourassa government's position on the alignment of roles was indistinguishable from that of the outgoing Parti Québécois government. Evidence of that is found in the Quebec Liberal party's position paper on constitutional reform issued in January of 1985, several months before the provincial election was even called. That particular paper, unlike the one issued by the Quebec Liberal party in 1980, stated that a Liberal provincial government would seek some reallocation of powers, particularly "the constitutional right to have an equal say with Ottawa as regards the selection and the number of immigrants settling in Quebec each year." The explanation and justification for demanding greater authority both in selecting individual immigrants and determining the precise number that would be destined to Quebec contained in the Quebec Liberal party's position paper, like the one contained in the position paper of the Parti Québécois discussed above, emphasized Quebec's demographic and cultural objectives:

Population growth and demography, both within the province and in Canada as a whole, are questions of paramount importance for Quebec's French-speaking cultural society. Inside the province, Quebecers want to be assured that the demographic balance will be maintained in such a way that Quebec's unique character will be permanently preserved. At the same time, they are anxious to
maintain their present percentage share of the overall Canadian population, a crucial factor of their political influence within the federation.¹⁹²

The issue of additional authority for the Quebec provincial government received some, albeit limited, attention during the 1985 provincial election campaign in which the Bourassa Liberals defeated Pierre-Marc Johnson's Parti Québécois government. The issue was not controversial, however, as both parties essentially agreed both on the basic principle of additional authority and the facets of the immigration planning and management process in which it was required. Moreover, during that election both parties also agreed on the need to increase the proportion of immigration destined to Quebec annually. Agreement on this particular point is evident in their respective party manifestos for the 1985 provincial election. The Parti Québécois' manifesto stated that:

Because of immigration and the drop in the birthrate, the relative strength of the Quebec nation is diminishing both within Canada and throughout the continent....

French-speaking Quebecers represent less than 2 per cent of the combined population of Canada and the United States. The weight of Quebec within Confederation is steadily dropping: 32.8 per cent in 1871; 29 per cent in 1951; and 25.8 per cent in 1986.¹⁹³

The Quebec Liberal party's manifesto made the same case for increasing the volume of immigration to that province as follows:
A falling birthrate; a negative migration flow; an aging population...We must face up to reality: the survival of the French fact in North America is at stake....

The relative weight of Quebec’s population in proportion to the whole of Canada will fall from 26.5 per cent in 1981 to 24 per cent by 2006, while the relative weight of western Canada’s population will rise from 28.7 per cent to 30 per cent.

Demographic decline is eroding Quebec’s position in Confederation, which will inevitably cause our political weight to erode as well.134

The Quebec Liberal party’s manifesto added that an increased number of immigrants would help to reverse the demographic decline. However, in order to ensure that it did not adversely affect the size of the francophone community special efforts were needed to find francophone immigrants and ensure that they, along with non-francophone immigrants, were integrated into that community:

Since francophone immigrants find it easier to integrate into Quebec society, the Quebec Liberal party proposes to facilitate francophone immigration by adjusting selection criteria to increase the number of applicants admitted, particularly younger ones, from francophone countries.135

Finally, the Quebec Liberal party’s manifesto asserted that “federal immigration policies must take into account Quebec’s unique...immigration responsibility.”136 This particular statement reflects a concern by the Quebec government that provisions in federal statutes either in
their present form or as amended in the future could render provincial immigration legislation and regulation ultra vires if challenged in the courts by virtue of the principle of federal paramountcy under section 95 or exclusive federal jurisdiction over aliens under section 91(25). This was a major reason that, as shall be discussed below, the Quebec government would propose a mechanism for constitutionalizing federal-provincial immigration agreements during the Meech Lake and Charlottetown rounds of constitutional reform.

Shortly after assuming power, the Bourassa government began to outline its conditions for signing the constitution. One of those conditions was increased authority in immigration. As noted in the previous chapter, Premier Bourassa had been contemplating such an initiative for nearly a decade. Evidently, during his sojourn out of power he had given considerable thought to Quebec’s demographic concerns and became more convinced than ever that, among other things, a carefully and provincially managed immigration program was a prerequisite to solving those problems.197

Premier Bourassa’s views were echoed by Quebec’s Minister for Canadian Intergovernmental Affairs, Gil Rémillard, in several statements made in the spring of 1986 in anticipation of the start of federal-provincial negotiations on constitutional reform. In one such statement made in April 1986 he indicated that during such
negotiations Quebec would be pressing for a veto over immigration matters that affect the province.\textsuperscript{198} He reiterated this in a statement made at a 1986 conference held at Mont Gabriel, Quebec in which he noted that for demographic reasons Quebec sought "sole power to plan its immigration."\textsuperscript{199} Echoing the sentiments of successive governments since 1960, he offered the following explanation for the importance that his government attached to such power in immigration:

Recognition of the specific nature of Quebec gives rise to the need for obtaining real guarantees for our cultural security. Cultural security translates into giving Quebec sole power to plan its immigration. In this way it can maintain its francophone character by countering or even reversing demographic trends that foreshadow a decrease in Quebec's relative size within Canada.\textsuperscript{200}

In that same speech Rémillard also made some other remarks, which would eventually become quite significant in light of specific demands for roles and responsibilities in the settlement phase of immigration. The most important of all was the reiteration of the demand made by successive Quebec provincial governments since at least the 1960s for federal withdrawal from certain key policy areas that were important for Quebec's cultural objectives, and that such withdrawal should be accompanied by financial compensation from the federal government to the provincial government for planning, managing and delivering programs in those policy
areas. After equating the federal spending power with a "sword of Damocles" he noted that:

Cultural security also signifies Quebec's ability to act alone in its field of jurisdiction without interference from the federal government through its spending power.... We would be very happy if the federal government removed itself from these areas of responsibility - education, manpower, health. However, we consider it unacceptable that it should do so without granting financial compensation to provinces for the discharge of these responsibilities. 201

The significance of those remarks for immigration would be fully understood only when, as shall be discussed below, during the negotiations on the Meech Lake Accord in 1987 the Bourassa government reiterated the demands of its predecessor for the federal government to withdraw from planning and delivering settlement services in Quebec and compensate the provincial government for providing such services.

An additional clue on the authority which the Bourassa government was seeking in immigration was provided by the Quebec Minister of Immigration, Lise Bacon, a few months later during a dispute between Canada and Quebec on the refugee determination and selection process which had been established to deal with a backlog of thousands of refugee claimants within Quebec. At that time the Quebec Minister of Immigration, Lise Bacon, indicated publicly that the provincial government would seek a greater role in the
selection of refugees and prospective immigrants residing in Quebec because refugees were beginning to constitute a significant portion of the influx of foreigners into that province. The Quebec Minister asserted that the presence of more than 11,000 persons claiming refugee status in Quebec, roughly one half of the total for all of Canada, at that time, made it imperative for Quebec to "have a stronger say, in any new Canadian Constitution, over which immigrants should be allowed to stay in Quebec."202 For his part, the federal Minister of State for Immigration, Gerry Weiner indicated that although the refugee determination process per se would continue to be the sole responsibility of the federal government, Quebec would have "an important say over which of the refugees would be permitted to stay in Quebec."203

Shortly thereafter the federal and Quebec governments reached a tentative agreement on how provincial officials could participate in processing applications of some refugee claimants in that province as well as certain other exceptional cases of individuals who were not refugee claimants. The Mulroney government agreed that Quebec officials could review the files of refugees claimants and other individuals who might qualify for permanent resident status under the assisted relative category of the independent immigrant class, and also of those individuals whom federal officials would allow, on compassionate
humanitarian grounds, to apply as an independent immigrants from within Canada rather than from abroad.204 Pursuant to the agreement, Quebec could evaluate the former according to its own selection criteria and make a recommendation to federal officials on whether a visa should be issued. In the case of the latter, Quebec officials had two months in which to review and if they wished, make a case that federal officials should reconsider their initial decisions.205 Federal officials were not obliged to alter their initial assessment based on the advice of their Quebec counterparts. Those arrangements were comparable to the arrangements under the Andras-Bienvenue agreement of 1975 whereby Quebec officials could give their opinion on the merits of applications by potential immigrants, but the final selection decision rested with the federal government.

The Quebec government was not as concerned with the precise role that its officials performed in that process, as it was with establishing the principle that it could have a role in the selection of individuals whom Ottawa allowed to apply for permanent resident status from within Canada. The importance which it placed on this principle is evident in a press release issued by the provincial government in 1986 which noted that this was the first time that Quebec participated in any fashion in the selection of applicants residing in the country, and concluded that Quebec’s participation in the selection of immigrants both from
abroad and within Canada constituted an important acquisition of jurisdictional authority for that province.\textsuperscript{206}

In addition to the desire to establish that principle, the Quebec government also deemed its participation in that process important because it brought its officials into contact with all refugee claimants and others who were granted permanent status. Such contact provided its officials with the opportunity to impress on such individuals that the federal government was not the only one which had an interest and a role in providing for their settlement needs. Both to underscore that point and also to assist such individuals in settling and integrating in Quebec society, the provincial government began issuing an official provincial selection certificate to refugee claimants and other individuals who had received a visa from federal officials. As well, it began counselling such claimants about and individuals about the organizations, programs and services that could assist them to settle in Quebec and to learn French.\textsuperscript{267} The importance which the Quebec government attached to providing them with the means to learn French is evident in the following excerpt from the aforementioned press release issued by the Quebec Minister of Immigration on December 7, 1989:

Par ailleurs, le MCCI rencontrera toutes les personnes acceptées dans le cadre de ce programme, afin de leur fournir divers éléments d’information et de
counselling, et de leur émettre un certificat de sélection du Québec qui facilitera leur accès à certain services gouvernementaux. Ce counselling permettra au MCCI d’orienter ces personnes, au besoin, vers les cours de français dispensés entre autres, dans les COFI, de les mettre en contact avec des organismes s’occupant d’intégration et de francisation.

While the aforementioned negotiations were important, the Quebec government’s principal objective was to conclude a comprehensive immigration agreement and to achieve constitutional reform which would enhance the constitutional basis and protection of the same. Towards that end, and in an effort to secure the support of other provincial premiers for constitutional reform, in August 1986, two months after Rémillard’s Mont Gabriel speech, Quebec’s Premier Bourassa explained his government’s five demands, including the demand for more powers over immigration, to the annual Premiers’ Conference. Although Quebec’s position was not formally endorsed, none of the other Premiers criticized or rejected it. At that time the other provinces preferred to wait until the federal and Quebec governments had fleshed out the details of the five demands, including the one on immigration, before taking a position on the matter. Instead, they agreed that in this round of constitutional negotiations dealing with Quebec’s demands would be a priority. That agreement was confirmed at a federal-provincial conference of first ministers held in Vancouver November 20-21, 1986 where Prime Minister Mulroney and his
provincial counterparts decided that all of Quebec's demands, including those related to expanded and constitutionalized roles in immigration, would be dealt with during the formal negotiations on constitutional reform. In the interim, bilateral negotiations were undertaken by federal and Quebec officials to determine what changes should be made to the Cullen-Couture agreement. Those negotiations produced three broad principles for revising the Cullen-Couture agreement: first, Quebec would continue to perform the same roles as it did under the Cullen-Couture agreement in selecting immigrants, refugees, and various categories of visitors; second, Quebec would be guaranteed a key role in determining the volume of immigration destined to that province; and third, Quebec would be given full control of settlement services with financial compensation. Those principles were included in the communiqué of the First Minister's Conference at Meech Lake on April 17, 1987 which stipulated that the next Canada-Quebec immigration agreement would:

(a) incorporate the principles of the Cullen-Couture agreement on the selection abroad and in Canada of independent immigrants, visitors for medical treatment, students, and temporary workers, and on the selection of refugees abroad and economic criteria for family reunification and assisted relatives.

(b) guarantee that Quebec will receive a number of immigrants, including refugees, within the annual total established by the federal government
for all of Canada proportionate to its share of the population of Canada, with the right to exceed that figure by five per cent for demographic reasons, and

(c) provide an undertaking by Canada to withdraw services (except citizenship services) for the reception and integration (including linguistic and cultural) of all foreign nationals wishing to settle in Quebec where services are to be provided by Quebec, with such withdrawal to be accompanied by reasonable compensation.

The wording of paragraph (a) is ambiguous with respect to whether or not Quebec could actually be involved in the selection of independent immigrants who applied from within Canada. The reason for this ambiguity is that the federal and Quebec governments had differed for some time on whether the Cullen-Couture agreement authorized Quebec to select independent applicants who applied from within Canada rather than from abroad. The key words in that paragraph regarding this matter are that the next Canada-Quebec agreement would merely "incorporate the principles of the Cullen-Couture agreement" on the selection of such applicants. There was no explicit statement, however, regarding whether this included applicants whom the federal government allowed to apply from within Canada or were granted visas under administrative reviews sometimes referred to as amnesties either on a case by case basis or on a general basis. Eventually, however, under the 1991 immigration agreement Quebec would be authorized to select applicants in the independent immigrant category whom the federal government
allowed to apply from within Canada.

Another ambiguous provision in the 'Immigration Clause' of the Meech Lake communiqué was the one which stipulated that Quebec would be guaranteed a proportionate share of immigrants with the right to exceed that figure by five per cent. During the public debate on the Meech Lake Accord, the federal government indicated that there was a tacit understanding with the Quebec government that the guarantee was to be interpreted and applied in a flexible manner. Prime Minister Mulroney underscored this in a letter to a Quebec newspaper:

Il est bon souligner que personne n'interprète cette disposition comme un engagement ferme de la part du gouvernement fédéral à envoyer au Québec un certain nombre d'immigrants au Québec, quelles que soient les circonstances; elle n'est pas non plus interprétée comme un engagement de la part du Québec à accueillir un certain nombre d'immigrants même si cela s'avérera impossible dans la pratique.\(^\text{112}\)

That explanation was echoed by the federal Minister of State for Federal-Provincial Relations, Senator Lowell Murray, who noted that it was only a political commitment not a constitutional guarantee. In his words: "This so-called 'guarantee' is not in the Meech Lake amendments: it reflects a political commitment -- the basis of an agreement to be negotiated with Quebec. But this is simply a 'best efforts' statement -- a target."\(^\text{113}\) In a similar vein, Jake Epp, a federal cabinet minister, explained in his submission on
behalf of the federal government to the Manitoba Task Force on the '87 Constitutional Accord that:

The "guarantee" of a certain level of immigration to Quebec, contained in the Meech Lake Constitutional Accord is interpreted by all parties to the Accord as a permissive provision.... It must be emphasized that no one interprets this as an ironclad commitment by the federal government to send a certain number of immigrants to Quebec regardless of circumstances; nor is it interpreted as a commitment by Quebec to receive a certain number of immigrants even if this proves practically impossible. 214

Despite such pronouncements by members of the federal cabinet, however, the Quebec provincial government was confident that regardless of how that particular provision was interpreted, it would likely result in the province receiving approximately 25% of the annual intake of immigration, rather than approximately 17.5% as had been the case during the 1980s. 215

The Quebec government's desire for a higher ratio of immigration stemmed from its concern that the size of that province's population as a percentage of the total Canadian population continued to decline as it had done for nearly two decades. It was particularly concerned about the implications that a reduction in the size of its population relative to that of other provinces could have for Quebec's political clout within the federation. The size of the population was important both for the number of seats that Quebec would have in Parliament as well as for any
constitutional amendments made pursuant to the seven provinces with fifty percent of the population provision in the Constitution Act, 1982. These were the key issues which Premier Bourassa had in mind during the negotiations on the Meech Lake Accord whenever he spoke of the need for his government to deal with Quebec's problems of "demography and immigration."²¹⁶

The other key provision in the 'Immigration Clause' of the Meech Lake communiqué obliged the federal and Quebec governments to take the necessary steps to constitutionalize the proposed immigration agreement. This provision was included largely due to Premier Bourassa's longstanding desire to consolidate the constitutional basis of such agreements. As in the mid-seventies, Premier Bourassa wanted some constitutional protection for such agreements to ensure that they could not be abrogated by the federal government. As the federal Minister of State for Federal-Provincial Relations, Senator Lowell Murray, explained: "Quebec and others seek the capacity to 'entrench' agreements under the Constitution in order to avoid the possibility of an agreement being overridden unilaterally by the future exercise of federal legislative power."²¹⁷

Evidently, the Quebec government, w. not only concerned about intentional overrides by future federal governments. It was also concerned about the possibility that in the absence of a clear constitutional basis for such agreements,
certain provisions therein may have been vulnerable to court challenges on the basis that they contravened the federal paramountcy in immigration provision under section 95 and the exclusive federal jurisdiction for control of aliens provision in section 91(25) of the constitution. The Quebec government was particularly concerned about the vulnerability to such challenges of those provisions both in the existing and proposed agreement which authorized Quebec to refuse independent immigrants and various categories of visitors who did not meet its selection criteria direct entry into that province even though they qualified for admission into Canada under the federal selection criteria. This concern was even greater with respect to the determinative role which it sought in a new agreement in the selection of immigrants who applied from within Canada. Quebec's concern on the constitutional validity of bilateral arrangements in the selection of immigrants was also shared, though by no means to the same extent, by the federal government and some provincial governments who were interested in increasing their authority in the selection of immigrants destined to their respective province.

It was largely in an effort to preclude such court challenges that certain provisions were included in the 'Immigration Clause' of the proposed 1987 Constitutional Amendment. The most significant provision in this respect was contained in subsection 95B(1) which stipulated
that any agreements relating to the permanent or temporary admission of aliens can have the force of law notwithstanding sections 95 and 91(25) of the Constitution Act, 1867. Had it been ratified, this provision would have permitted the two levels of government to align their respective roles in the selection and admission of such immigrants as they saw fit notwithstanding either the federal government's paramountcy power in the field of immigration pursuant to section 95, or its exclusive powers over 'control of aliens' pursuant to section 91(25). In effect, that provision would have strengthened the constitutionality of the provisions in the existing and proposed agreements. As well, it would have provided a new constitutional framework under which the federal government could have delegated some of its authority under section 91(25) to Quebec or any of the other provinces via a bilateral immigration agreement. It would have also provided the mechanism by which the federal government could enter into different relationships via constitutionalized bilateral agreements with the various provinces in immigration because, in light of the notwithstanding sections 95 and 91(25) provisions, neither these two sections of the constitution nor the federal Immigration Act would have had to apply equally to all the provinces. How they applied to each province would have depended largely on the provisions in their respective constitutionalized
bilateral agreement with the federal government.\textsuperscript{221}

During the federal-provincial negotiations on the Meech Lake Accord the aforementioned provisions regarding changes to the Cullen-Couture agreement and the mechanism for entrenching bilateral immigration agreements were accepted by all first ministers. This was the least controversial part of the Meech Lake negotiations.\textsuperscript{222} This issue also generated very little controversy either among federal and provincial legislators or the attentive public, except for two notable exceptions.\textsuperscript{223} In June 1987, Ontario's Progressive Conservative party leader, Larry Grossman, publicly criticized the provisions guaranteeing Quebec a percentage of immigration. Former Prime Minister Trudeau criticized the Immigration Clause both for balkanizing immigration planning and management and its potential to undermine Ottawa's legitimacy among immigrants.\textsuperscript{224}

The Mulroney government's decision to accede to Quebec's demands was primarily rooted in its electoral interests, its regime-legitimacy interests and system development interests.\textsuperscript{225} In terms of its electoral interests, it wanted to consolidate the electoral gains which it had made in 1984 in that province with the promise that his government would be more sensitive than the Liberal government had been to Quebec's position on constitutional reform. The Mulroney government was by no means alone in its desire to curry favour with the Quebec electorate at
that time. The Liberal and New Democratic parties were equally cognizant of the electoral advantages in Quebec of endorsing the Meech Lake Accord, and the potential risks which they faced if they failed to do so. Neither of them criticized either the commitments which had been made to Quebec for revising the Cullen-Couture agreement or for constitutionalizing it.

In terms of its regime-legitimacy interests, it felt that it had to demonstrate to Quebecers, especially those who had strong autonomist and sovereignist sentiments that the federal government was not a self-serving behemoth that was more interested in safeguarding its jurisdictional turf than entering into constitutional and administrative arrangements with the provincial government that would allow it to pursue its social and economic development objectives. In short, it felt that in order to enhance the legitimacy of the federal government among a substantial portion of Quebecers it had to enter into an agreement with the Bourassa government which recognized the right of the latter to perform key roles in planning and managing immigration.

Similarly, in terms of its system development interests, the Mulroney government felt that acceding to Quebec's demands at that time was important for precluding federal-provincial conflict that could have fanned autonomist and separatist sentiments in that province. This also accounts for the position taken by the federal
opposition parties and the provincial governments in the other provinces during the early part of the negotiations on the Meech Lake Accord. As the debate on the Meech Lake Accord intensified, the need to appease autonomist and sovereignist sentiments in that province became as important for the Mulroney government's system development interests as it had for those of the Trudeau government in the late-seventies when it acceded to the demands of the Parti Québécois government for authority over the selection of independent immigrants and refugees applying from abroad. The only difference was that whereas Prime Minister Trudeau had only the tacit or informal consent of his counterparts in the other nine provinces to accede to the demands of the Parti Québécois, Prime Minister Mulroney had the explicit and formal consent of his provincial counterparts to accede to the demands of the Bourassa government.

In 1987 Prime Minister Mulroney and the premiers from other provinces saw the expanded authority for Quebec in immigration as a relatively minor concession for reaching an agreement on constitutional reform that was acceptable to that province. This consideration which was inextricably linked to those noted above, outweighed any concerns that either Prime Minister Mulroney or his provincial counterparts in the other nine provinces had regarding granting the Bourassa government increased authority in immigration. They were all aware of the
importance that Premier Bourassa attached to additional authority for his province to perform key roles in immigration. Premier Bourassa made a point of reminding them of this in his statement immediately after signing the Meech Lake Accord on June 3, 1987 when he underscored the importance that performing such roles in the field of immigration would have for the preservation of Quebec as a distinct society:

Parlant du Québec comme société distincte, il faut mentionner les gains qui ont été faits par notre province dans un secteur-clé et directement relié à la sécurité culturelle du Québec, c'est-à-dire le secteur de l'immigration. Dans cette question du partage des pouvoirs, qui devra faire l'objet d'une deuxième ronde, l'accent mis sur cette question d'immigration, étant donné les phénomènes démographiques que nous constatons actuellement et étant donné le fait bien compréhensible de la vulnérabilité de la culture française en Amérique du Nord.220

That statement was directed as much to Quebecers who espoused autonomist sentiments as it was to the assembled First Ministers. Premier Bourassa had promised Quebecers that he would obtain greater authority in immigration during this round of constitutional negotiations and the provisions in the Meech Lake Accord was a reminder to them that he was very close to doing so. Ultimately, of course, with the failure of both the Meech Lake Accord in 1990, and the Charlottetown Accord in 1992 he was unable to obtain the constitutional amendment which he had sought in order to
provide constitutional safeguards for Quebec's roles in the field of immigration. Nevertheless, in February 1991 he was able to conclude another major bilateral agreement with the federal government which broadened the scope of Quebec's roles in several key areas of the immigration process beyond what they had been under the Cullen-Couture agreement of 1978, and as envisioned in the Meech Lake communiqué of 1987. Concluding that agreement proved to be much more difficult and controversial than the agreement in principle in 1987.

Despite the fact that the Mulroney and Bourassa governments had agreed to most of the key provisions that would eventually be included in McDougall/Gagnon-Tremblay agreement of 1991 at the time that they were negotiating the Immigration Clause of the Meech Lake Accord in 1987, four years would pass before they signed it. The delay between June 1987 and June 1990 was largely due to a tacit understanding between the federal and Quebec governments that the immigration agreement should not be signed until the Meech Lake Accord was concluded. 229 That understanding was based on the shared belief that the precise wording of the agreement, and to some extent also the constitutionality of certain provision therein, was contingent on whether the Immigration Clause in the Meech Lake Accord was ratified and entrenched in the constitution. 230 Furthermore, there were some concerns that the agreement could become another
lightening rod for opposition to the Meech Lake Accord.\textsuperscript{211}

In June 1990 when, in the aftermath of the failed Meech Lake Accord, the future of Quebec's status within Confederation was once again in doubt, the proposed bilateral agreement on immigration acquired a major symbolic importance both for the federal and Quebec governments. The day following the failure of the Meech Lake Accord both Prime Minister Mulroney and Premier Bourassa were anxious to demonstrate that there were other avenues that could be pursued to enhance the capacity of the Quebec government to foster the social and economic development of that province within the existing constitutional framework. During the course of their respective press conferences both pointed to the bilateral immigration agreement which they would be signing in the very near future as an example of how that could be accomplished.\textsuperscript{212}

During his press conferences Prime Minister Mulroney pointed to the agreement as an example of how federalism could still be adapted to enhance the capacity of the Quebec government to pursue its social and economic development objectives. In response to questions from journalists regarding progress of negotiations for an agreement the Prime Minister said: "I have already had interesting conversations with Mr. Bourassa on this subject. We have made important progress in a bilateral negotiation in this area which is important and crucial for the future of
Quebec. “233

The proposed agreement also served important symbolic purposes for the Quebec government. The problems surrounding the ratification of the Meech Lake Accord had contributed to a dramatic rise both in the popularity of the Parti Québécois and nationalist passions in that province. Consequently, the Bourassa government needed tangible proof that it had not lost its autonomist zeal and that it could still exact key concessions from the federal government for greater autonomy in important fields of jurisdiction. In reaction to the failure of the Meech Lake Accord, Premier Bourassa announced that henceforth his government would not participate in any multilateral conferences on constitutional reform, and that instead it would engage the federal government in bilateral negotiations to expand that province’s autonomy in various policy fields. He added that one of the first priorities in this new era of Canada-Quebec bilateralism was to finalize the immigration agreement as had been envisioned under the Meech Lake Accord.234

Echoing his earlier position on this matter he indicated that obtaining extensive control in the field of immigration was very important for Quebec governments in their efforts to achieve their demographic, socio-cultural and socio-economic objectives.235

Given the foregoing public statements by Prime Minister Mulroney and Premier Bourassa regarding the importance which
they attached to the agreement and their suggestion that such signing was imminent, why did it take nearly eight months after the failure of the Meech Lake Accord to sign the agreement? Furthermore, why did the Bourassa government resort to lobbying the Mulroney government both publicly and privately to conclude the agreement? The explanation for the delay in signing the agreement offered by federal and provincial officials highlighted two major factors. First, they noted that the draft agreement needed to be revised to eliminate references to the constitutional entrenchment of the agreement that were no longer appropriate since in light of the failure of the Meech Lake Accord there would be no such mechanism. Second, they noted that the lull of the summer break during which many of the key decision-makers were either on vacation or preoccupied with the emergency created by the so-called "Oka Crisis" made it difficult to conclude the agreement. This was the thrust of the explanation offered in a joint announcement made on July 23, 1990 by senior federal and Quebec civil servants that the agreement would be signed by the end of the summer.236 A spokesperson for the federal government said that although they were still negotiating the agreement, its signing was imminent.237 A spokesperson for the Quebec government concurred with that statement and said that although a few minor details had to be worked out the agreement "would certainly be signed by the end of the summer." He added
that at that particular time it was "...just an agenda problem, while people are on holidays, rather than a problem of substance in the agreement."\textsuperscript{238}

Contrary to the statements made by the aforementioned officials, some of the matters which had to be resolved before the agreement could be signed were quite significant, and not merely minor technical details. Evidently, the two sides could not agree on at least two key substantive items. First, and most importantly, they could not agree on the precise level of compensation to Quebec for providing reception and integration services to immigrants and refugees destined to that province.\textsuperscript{239} In addition to its objective of minimizing the amount of financial compensation to Quebec, the federal government's position on this particular issue was influenced by a concern that if the compensation formula was too attractive, other provinces would demand similar arrangements with comparable compensation packages.

Second, evidently they could not agree on precisely how the provision regarding the guarantee for that province to receive a proportion of immigrants equal to its share of the population with the right to exceed that figure by up to five per cent should be interpreted and operationalized. According to one newspaper report, the federal government was contemplating reneging on its commitment for such a guarantee contained in the Meech Lake Accord. According to
the article: "The Canadian government reportedly is not going to guarantee Quebec a certain proportion of immigrants, as the province had sought, but is agreeing to make every attempt to help the province attract new people." A comment made by a Quebec official as reported in that same article indicates that the federal government may have been contemplating interpreting that particular provision not as a guarantee but a target, as had been suggested by members of the Cabinet in various public statements during the deliberations on the Meech Lake Accord. In response to what would be the scope of the final agreement he emphasized that as far as Quebec was concerned it was not anticipating signing an agreement that contained anything less than what had been promised in the Immigration Clause of the Meech Lake Political Accord. In his words: "Everything that was in Meech is still the minimum. That's our bottom line...."  

In addition to the aforementioned substantive matters, the signing of agreement was delayed because the federal and Quebec governments disagreed on a date for signing the agreement. Whereas the Quebec government wanted the agreement concluded as soon as possible, the Mulroney government wanted to postpone it for several months. There were at least two major reasons that the federal government wanted to do so. First, by the fall of 1990 the Mulroney government had become concerned that, in the aftermath of
the failure of the Meech Lake Accord, signing the agreement might have generated some negative reaction among the public in other provinces to the strategy of enacting certain facets of the Meech Lake Accord such as those contained in the Immigration Clause through bilateral arrangements with Quebec. It was concerned that such a reaction could have adversely affected the ongoing efforts at constitutional reform. Second, the federal government also hoped that the signing of the agreement could be postponed until some progress was made on other bilateral negotiations with Quebec, especially those in policy fields which were within the aegis of the federal department of Employment and Immigration and also entailed the prospect of transferring federal funds to the provincial government. Two such policy fields were labour-market training on which negotiations were to be undertaken in anticipation of the expiry of the federal-provincial agreement on March 31, 1991, and unemployment insurance. The arrangements which the Quebec government envisioned in these fields were essentially the same as those it envisioned in the provision of settlement services in immigration. It wanted to supplant the federal government in planning and managing both labour-market training and unemployment insurance with federal financial compensation for doing so. The level of federal compensation in these two policy fields would have been considerably more than that for planning and managing
settlement services. In a statement to the National Assembly, on December 13, 1990, Quebec's Minister of Manpower, Income Security, and Skills Development indicated that the funds his government hoped would be transferred amounted to approximately $1 billion. In that statement he also indicated that he had written the federal Minister of Employment and Immigration, Barbara McDougall, urging her to commence negotiations on that particular issue. These initiatives were consistent with Premier Bourassa's longstanding strategy of pressing the federal government at critical times to achieve what he once dubbed a "fédéralisme rentable" for Quebec.

Given the foregoing considerations the federal government had hoped that the immigration agreement would not be finalized until at least after Quebec's Bélanger-Campeau Commission on constitutional reform had submitted its report on the alignment of powers and roles between Canada and Quebec. This consideration is evident in certain comments Prime Minister Mulroney made when negotiations on the immigration agreement were concluded in December, 1990. On that occasion he asserted that the immigration agreement was "...a special case, and any other issues raised by Quebec should be considered only after the Bélanger-Campeau Commission on Quebec's future reports to the province's National Assembly."

Comments made to the media in September 1990 by
Quebec's Premier Bourassa suggest that he was aware of what he termed Ottawa's "strategic reasons" for delaying the signing of the agreement.\(^ {245}\) He also indicated that he could not accept the federal government's explanation that the delays were "...due to the constitutional committees being created on all sides...," and added that Ottawa's fear of a negative reaction from the rest of the country to giving Quebec increased powers over immigration was no legitimate justification for delaying the signing of the agreement.\(^ {246}\)

By the latter part of September 1990 the Bourassa government had become very frustrated both with the position which the federal government had taken on the key elements of the agreement discussed above and what it perceived as its efforts to delay signing it. Its frustration stemmed from concerns regarding the effect that failure to sign the agreement was having on its electoral and system development interests. Faced with a resurgence of popular support for the Parti Québécois and its agenda for Quebec sovereignty, as well as the sovereignist bias which was developing around the Bélanger-Campeau commission, the Bourassa government felt that it was imperative to conclude the agreement as soon as possible in order to demonstrate that it was succeeding in its efforts at increasing Quebec's autonomy via bilateral negotiations with the federal government.\(^ {247}\)

In an effort to constrain the federal government to
resume the negotiations the Quebec government launched a massive lobbying campaign which entailed both criticizing the federal government publicly for the lack of progress on the negotiations and also encouraging certain MPs and Senators from Quebec to pressure the federal government on this issue. The lobbying campaign was initiated by Premier Bourassa himself in the fall of 1990. In addition to the comments noted above, he made other statements that were clearly designed to remind the federal government that autonomist and sovereignist sentiments had not subsided since the failure of the Meech Lake Accord. On one such occasion he asserted: "If we can't even renew agreements that [were] concluded a dozen years ago, we can...see the problems for the future of our country." He added that delays in signing the immigration agreement, combined with the slow pace of commencing negotiations for bilateral agreements on matters such as manpower training, health, and communications, cast "doubt on the viability of our country." 

In his efforts to pressure the federal government to accede to his government's demands and finalize the agreement without further delays, Premier Bourassa also directed his Minister of Immigration, Monique Gagnon-Tremblay, to enlist the support of various federal parliamentarians from Quebec to pressure the federal government to conclude the agreement. For that purpose the
Quebec Minister of Immigration solicited the support of various Senators from Quebec, including some who had served in a Bourassa Cabinet at one time or another, to encourage Prime Minister Mulroney to sign the immigration agreement.250 Quebec’s Minister of Immigration also wrote Members of Parliament from Quebec, including Benoit Bouchard who had served as Minister of Immigration when negotiations on the agreement commenced, asking them to facilitate the signing of the agreement without further delay.251 Those lobbying efforts, together with Premier Bourassa’s public criticism of the federal government proved quite effective in motivating Quebec MPs from all parties to apply pressure on the Prime Minister and his Minister of Immigration to conclude the agreement. The effect of those lobbying efforts were most visible between October and December 1990 when Quebec MPs from all parties intensified their efforts, both publicly and privately, in pressuring the Prime Minister and his Minister of Immigration to conclude the agreement.

The public pressure was applied during Question Period in the House of Commons by members of the Conservative, Liberal, and Bloc Québécois parties. The first to do so was the leader of the Bloc Québécois, a new nationalist party in Parliament which had been established largely by disaffected members of the Conservative and Liberal parties who defected from their respective parties because of the lack of
progress on constitutional reform during the Meech Lake Accord process. For the Bloc Québécois the delays in signing the agreement provided it with a key issue on which it could attempt to strengthen its support in Quebec while at the same time casting doubt on the federal government's commitment to enhancing Quebec's autonomy in key fields of public policy. Three days before Premier Bourassa vented his frustration with delays by the federal government in concluding the immigration agreement, the leader of the Bloc Québécois, Lucien Bouchard, MP (Lac-Saint-Jean), who prior to his defection was a powerful member of the Quebec Conservative caucus, asked the Minister of Immigration about the status of the negotiations:

Press reports indicated this summer that we could expect an agreement to be concluded that would transfer most federal powers and responsibilities with respect to immigration to the Government of Quebec. However, in an article that appeared recently in Le Devoir, we read that the negotiations had fallen through.... What is the status of these negotiations now? Are they deadlocked? If so why?²⁵²

The Minister of Immigration, Barbara McDougall, replied that she had nothing to say on the status of the negotiations at that time but that if there was any change in the situation involving Canada and Quebec or the other provinces, she would inform the House immediately.²⁵³

Approximately one month later, Jean-Pierre Blackburn, MP (Jonquière), one of the most outspoken Quebec nationalist
members of Conservative party who had strongly supported the Meech Lake Accord also stood in the House of Commons during Question Period to ask the federal Minister of Immigration to explain why there had been a delay in signing the immigration agreement:

This summer we were supposed to sign an agreement with the Government of Quebec to confirm Quebec's full authority over immigration matters. I am sure you realize that controlling the selection of immigrants and their cultural, linguistic and economic integration is extremely important to Quebec. Madame Minister, why the delay in signing this agreement?234

The Minister responsible for Immigration replied:

...it is of course unfortunate that we cannot sign the constitutional agreements as originally planned under the Meech Lake Accord. Nevertheless, our two governments still intend to update the existing Cullen-Couture accord signed in 1978. Today, however, I cannot confirm on what date intergovernmental talks will be finalized, but I can assure the hon. member that we remain firmly resolved to conclude an agreement.235

Just two days the same question was reiterated by a member of the Bloc Québécois, namely Gilles Duceppe, MP (Laurier-Saint-Marie). At that time he also asked the Minister of Immigration if she would explain whether the level of federal funding for immigrant integration services in Quebec would increase. The Minister replied that she had already answered those questions on various other occasions during that week and added that for her part she "remained
very sensitive to the situation in Quebec."256

Six days later, and just one day after Premier Bourassa again complained publicly regarding the delays in signing the immigration agreement, Lucien Bouchard again broached the issue of the federal government's commitment to sign the agreement:

...after the demise of Meech Lake Accord the federal government undertook to conclude an immigration agreement with Quebec.... Yesterday the Premier of Quebec...demanded that the federal government sign the (immigration agreement...(which is) in limbo. My question is: what is the Minister waiting for, and has the government decided to put a freeze on negotiations with Quebec?257

The Minister replied that her answer had not changed since the last time that Bouchard had asked her that question, She added that both the federal and Quebec governments intended to conclude an agreement, but that as she had already stated on several occasions, she would not confirm a date on the signing of the same.258 Bouchard retorted that he found it necessary to repeat his question because he had not received a satisfactory answer. He also added that it was essential to sign the agreement in order to resolve the issue of federal-provincial cost-sharing arrangements for language classes:

One of the harmful effects of not signing the agreement is that the government of Quebec has fewer resources to apply to French courses for immigrants. At the present time, the government's refusal to sign is doing
immeasurable harm to the immigrants concerned and weakens Quebec language policies. Will the government tell this House that it will stop meaning well and start what it has to do?\textsuperscript{259}

The federal minister replied that her government has set aside funds for language courses and that Quebec would receive its share.

Approximately a month after that exchange, the other member of the Bloc Québécois who had been questioning the minister on the immigration agreement, namely Gilles Duceppe, again raised the issue of the target date for signing that agreement in the House of Commons. This time, however, he directed his question at Prime Minister Mulroney:

We all know that Ottawa and Quebec are supposed to sign a new agreement on immigration. This morning the Quebec Minister of Cultural Communities and Immigration pointed out that signing this agreement was essential if Quebec was to pursue its plans with respect to immigration and that the agreement was not incompatible with current attempts at constitutional clarification in Quebec. My question is this: Does the Prime Minister intend to sign this agreement as soon as possible, and if not, why not?\textsuperscript{260}

The Prime Minister deferred to his Minister of Employment and Immigration to deal with the question. Barbara McDougall replied that although they were still working on the agreement it was not possible to predict when it would be signed. In her words:
Mr. Speaker, last week, before the Standing Committee on Labour, Employment and Immigration, we talked about the Meech Lake Accord and a Constitutional agreement, and subsequently about an administrative agreement. Of course, we are still working on this question but at this point it is impossible to set a date.²⁶¹

In his supplementary question Duceppe pressed the Minister regarding the signing as follows: "...would she...tell us, in no uncertain terms, whether or not she will sign this agreement? Since there is no immediate connection with the discussion on our constitutional future, it is feasible in the present context."²⁶² The Minister retorted: "Mr. Speaker, the answer doesn't change just because the hon. member is a bit upset," and added that: "The answer is still the same. The Prime Minister and myself have said this is an important question, but other matters remain to be discussed. There may be an announcement at some future date."²⁶³ The matters she was alluding to were those that have already been noted above. Efforts by federal MPs from Quebec to pressure the federal government to sign the immigration agreement continued into December 1990. The last questions to be asked in the House of Commons regarding the agreement prior to its signing was directed to the Minister of Immigration by André Ouellet, Liberal MP (Papineau-Saint-Michel). In his question, he noted the symbolic value of the agreement in efforts to counteract the "increasingly sovereigntist climate in Quebec" at that time.
In his words:

On the weekend, the Prime Minister referred to an increasingly sovereigntist climate in Quebec. I would like him to tell the House whether he realizes how important it is for his government to take concrete action to deal effectively with the situation. In this respect, is the Prime Minister prepared to instruct his Minister of Employment and Immigration to conclude as soon as possible an agreement with her provincial counterpart, as the previous administration did with the Cullen-Couture agreement, in order to get rid of at least one of the irritants in the Canada-Quebec dossier?  

The Prime Minister replied:

Of course.... The government is working actively with the Government of Quebec and other provincial governments on agreements in the difficult area of immigration, an area that is particularly important to Quebec, considering its demographic impact on the francophone part of our country. I think both governments will have more news on the subject in the not too distant future.  

A few minutes later during that same Question Period, a member of the Quebec Conservative caucus, Jean-Pierre Blackburn, stood in the House of Commons to remind the Minister of Employment and Immigration that the members of the Standing Committee on Labour, Employment and Immigration, intended to invite her to testify "about the difficulty of reaching an agreement with the Quebec government on immigration." At that time he also asked the Minister to state the government’s intention on the target date for signing the agreement. The preamble to his
question can only be seen as an attempt to remind Quebecers that the Quebec Conservative caucus was pressing the federal government to conclude an agreement:

This issue really concerns the members representing Quebec ridings. It is important for the survival of the francophone culture that newcomers be well integrated to the francophone community in Quebec. My question is the following: What is going on? Are discussions ongoing with the government of Quebec...[and is] progress being made or is there a freeze with Quebec?²⁶⁷

In her response to that question the Minister reiterated the answer that the Prime Minister had given a few minutes earlier to the effect that the federal government was still strongly committed to concluding an agreement. She added that she had spoken with Quebec minister responsible for immigration, Monique Gagnon-Tremblay, regarding this matter and that discussions between federal and provincial governments to conclude the agreement would begin shortly.²⁶⁸

Less than three weeks after that exchange in the House of Commons the federal and Quebec governments concluded the agreement in principle. The Quebec government's lobbying efforts had paid dividends. On December 27, 1990 the federal Minister of Immigration, Barbara McDougall, and her Quebec counterpart, Monique Gagnon-Tremblay jointly announced that an "agreement in principle" had been reached on December 21, 1990 and that the new agreement would be signed early in the new year and come into force April 1,
The importance which the Quebec government attached to the conclusion in pursuing its social and economic development objectives is evident in the following statements in the press release issued by the Minister of Immigration and Cultural Communities:

Cet accord constitue un gain majeur pour le Québec puisqu'il lui donne une série d'instruments lui permettant d'inscrire plus facilement l'immigration dans la recherche de l'atteinte de ses grands objectifs de développement, soit le redressement de ses grands objectifs démographique, la prospérité économique, la pérennité du fait français et l'ouverture sur le monde.

In conjunction with that announcement, the federal minister of immigration, Barbara McDougall, issued two press releases, one on December 27, 1990 and another the following day. The content of those press releases provides valuable insights into the federal government's reasons, or at least rationale, for signing the agreement. Hence, for all intents and purposes of this study, it is useful to highlight some of their key themes.

The first major theme was that the signing of such an agreement provided tangible evidence that the federal and Quebec governments could cooperate on issues of vital importance to the government and people of that province and that they could do so within a federated political system:

Clearly, this accord has achieved a balance that addresses the common interest of both parties. It reflects a
vital sense of justice. And it shows us what we can achieve through openness and partnership.

Under the Canada-Quebec Accord on Immigration, Quebec will be able to develop in accordance with its own fundamental characteristics. It will be able to continue its rightful place within Canada, and promote its identity within the Canadian Confederation.

The second major theme in those press releases was that the agreement would be beneficial in furthering the social and economic development of Quebec. This is evident in the press release of December 28, 1990 which intoned that both the federal and Quebec governments wished to preserve Quebec’s demographic weight within the federation and its distinct socio-linguistic character:

Quebec’s demographic problems and its need for cultural security in relation to immigration policy underlie the decision to sign...a new Accord on Immigration and the Temporary Admission of Aliens....

Quebec is the sole majority francophone province in Canada. However, with a birth rate which no longer ensures the replacement of the generations, a negative migratory flow for most of the last decade, and a diminution of its demographic weight within the federation, the province is concerned with its demographic, linguistic and cultural future. Among other factors, Quebec counts on immigration to help it redress this situation.

The task will not be easy, but the governments of Quebec and Canada have decided to work together to meet the challenge.272

Thus, the primary objective of the new agreement was,
ostensibly, "...to provide Quebec with better means to preserve its demographic weight within Canada and to ensure the integration of immigrants consistent with the distinct character of Quebec society." Although the press release did not stipulate what "demographic weight within Canada" meant, it is generally understood that it referred to the implications that the size of Quebec's population had for, among other things, the clout of the Quebec electorate within the national electoral system, the clout of the provincial government in constitutional reforms in which the population of provinces is a key element of any amending formula, and the amount of transfers from the federal government to the province which were based either on a per capita basis or on a cost-shared basis.

The third major theme in those press releases was that the realignment of roles under the new agreement would not have negative repercussion either for Canada's federal immigration policy and program or any of the key governmental and non-governmental stakeholders in the immigration process. In making a case to that effect the press release underscored that: the agreement would not threaten the fundamental principles of Canadian immigration policy; it would not balkanize federal immigration policy; and it would not give Quebec special status. At least one major statement was devoted to each of these issues. These are highlighted in turn below.
First, cognizant that some concerns persisted among other provincial governments and their respective citizenry that increasing Quebec's authority in the field of immigration might threaten individual mobility rights, family reunification, and admission of aliens on humanitarian grounds, the federal Minister of Immigration underscored that:

The agreement, which is subject to the Canadian and Quebec Charters of Rights, respects the mobility rights of immigrants, as well as their right to protection against all discrimination. Further, the accord proclaims Canada's and Quebec's commitment to the principle of family reunification and their common desire to further their objectives in the area of humanitarian admissions. 774

Second, cognizant that longstanding concerns regarding the so-called balkanization of immigration policy in this country persisted among some federal and provincial politicians and officials as well as certain sectors of the population, part of that press release was devoted to allaying such concerns. In that press release she gave assurances that balkanization would not occur, because what she termed "...the unity of the basic Canadian immigration policy" would be preserved. 775 Throughout the Meech Lake debate, the federal government had argued that uniformity of the federal immigration policy would be ensured by provisions which gave the federal government exclusive responsibility for setting federal standards and objectives pursuant to section 95 of the constitution, and full
responsibility for the admission and control of aliens pursuant to section 91(25) of the Constitution Act. The Minister of Immigration noted that Canada would retain exclusive authority for setting standards and objectives as well as for the admission and control of aliens in the press release issued on December 27, 1990:

It [the agreement] acknowledges that Canada has exclusive responsibility for setting national standards and objectives. It also recognizes that the federal government is responsible for the admission to Canada of all immigrants and for the admission and control of aliens.276

Third, a statement was included to allay concerns that the federal government's authority in planning and managing immigration in that province would not been completely negated by the Canada-Quebec agreement. The press release noted that the federal government retained the authority to set national standards, objectives, and immigration levels, as well as in determining refugee status, and admitting and controlling aliens:

On the one hand, the Accord will recognize Canada's exclusive responsibility to determine national standards and objectives. It also recognizes the federal responsibility for admission of immigrants and temporary admission of aliens to Canada. Canada will discharge these responsibilities by defining general categories of immigrants and the categories of persons who are inadmissible to the country, by fixing immigration levels and conditions for obtaining Canadian citizenship, and by maintaining responsibility for
fulfilment of Canada's international obligations. The federal government will also have the responsibility to decide refugee status, to grant permanent resident status to immigrants, and to grant the right of entry to aliens.

Finally, the press release contained a statement which was intended to minimize criticisms that Quebec was being granted special status in the field of immigration by noting that similar agreements had been signed with other provinces in the past, negotiations were under way with some other provinces at that time, and the federal government was willing to enter into such negotiations with other provinces in the future. To wit:

...there is a long tradition of federal-provincial cooperation in immigration. Over the last decade, the federal government has signed administrative agreements on immigration with six other provincial governments. Some other provinces are negotiating with the federal government; others may want to do so in the future.

In...[such negotiations], the federal government will take into account the situation and particular needs of each province within the federal framework, as was the case during the discussion with Quebec.\(^7\)

The last paragraph of the above statement is a reiteration of the policy espoused by successive federal governments since the mid-seventies that immigration agreements with other provinces would reflect their respective circumstances and needs, and would not necessarily be identical to Quebec's agreement.

The long awaited Canada-Quebec immigration agreement
was eventually signed, on February 5, 1991, approximately one month after the federal and Quebec Ministers had acknowledged that an agreement in principle had been reached, and one month before Quebec's Bélanger-Campeau Commission on that province's political and constitutional arrangements in the future released its final report. At the signing ceremony both the federal and Quebec ministers responsible for immigration emphasized the political and programmatic value of the new agreement.

Quebec's Minister of Immigration, Monique Gagnon-Tremblay, noted the strong resolve which her government had shown in obtaining this agreement. She also noted that the agreement was essential for realizing the objectives which had been outlined in the provincial government's policy paper on immigration titled *Let's Build Quebec Together*, released by the Quebec Ministry of Immigration and Cultural Communities in December, 1990, just two months prior to the signing of the agreement. Those objectives are articulated in the following statements contained in Part II of that policy paper titled "An immigration policy that contributes to the development of a French-speaking society and a prosperous economy":

> With the challenge of the future, the end results of the immigration policy are imperative. They are to seek and use the demographic, economic, linguistic and socio-cultural contribution of immigration to develop Quebec.

> The immigration policy must reflect the
interests and values of Quebec. Therefore, government action must contribute to achieving the major challenges of development—demographic, economic, and linguistic.\textsuperscript{281}

The policy paper added that immigration was particularly important for preventing the serious consequences of a decline in the province's population which, among other things, would result in less political weight within the federal and a smaller share of federal transfer payments:

The foreseeable consequences of a demographic decline are clearer now. There will be a drop in the volume of economic activity as a result of a declining population. Québec's demographic weight within the Canadian whole will decrease, leading to a loss of political weight and to a drop in Québec's share of federal funding. The resultant aging population could result in labour shortages and serious funding problems for social programs.\textsuperscript{282}

During her speech at the signing ceremony Québec's Minister of Immigration also returned to the theme that the agreement was evidence that Québec could pursue its social and economic development objectives within Canada. She reiterated that theme several times thereafter prior to the referenda (i.e., the one in Quebec and the one in the rest of the provinces) on the Charlottetown Constitutional Accord. The most notable instance was in a long article to the newspaper \textit{Le Devoir} published September 1, 1992 titled: "L'entente sur l'immigration, une modèle à suivre: La preuve que le Québec peut se développer dans le cadre fédéral."\textsuperscript{283}

The Québec minister's comments at the signing ceremony
together with the foregoing statements from her government's policy paper on immigration reveal that although there were changes in the precise alignment of roles which successive Quebec government's preferred and sought to achieve since 1971, their views regarding the advantages of an increased and active role in immigration for their material and non-material interests had not.

The federal Minister of Immigration also delivered a speech and issued a press release at the signing ceremony. Her speech and press release echoed each of the major themes that were contained in the press releases which she had issued in December 1990 the contents of which have already been discussed above. In fact, in most cases it did so verbatim. At the risk of some redundancy there are a few statements in the Minister's speech at the signing ceremony that must be highlighted because they provide additional insights into the federal government's reasons for signing the agreement as well as some concerns which it continued to have regarding the political and administrative implication of increasing Quebec's involvement in immigration.284

There were three key points in that speech which merit some attention here. The first was the reminder that this was an important agreement both for the province of Quebec and for Canadian federalism. In the minister's words: "It is a step forward for Quebec. And it is a step forward for federalism in this country." She added:
We wanted to find flexibility within our political system to address Quebec's legitimate needs while ensuring the coherence of our national immigration policy. We have found that flexibility and the proof is in the accord we are signing today.... 

Under the Canada-Quebec Accord on Immigration, Quebec will be able to develop in accordance with its own fundamental characteristics. It will be able to continue its rightful place within Canada, and promote its identity within the Canadian Confederation. 

The second major point was that the agreement served as an example of how any imperfections in the existing federal system could be corrected through federal-provincial collaboration:

The current system is not perfect, but...there are ways of adapting, updating and renewing our policies. Through administrative agreements of various kinds, like the one we are signing today, our current federal system can continue to serve Canadians well, in all regions of this country, and help them fulfil their fair and just aspirations.

The third major point, and closely related to the second, was that similar, though not necessarily identical, agreements could be concluded with other provinces. According to the minister, "the federal government always takes into account the cultural realities and particular needs of the province, within the Canadian constitutional framework, as it has done in the case of Quebec." As noted above, this was a message to other provinces that if they wanted to enter into bilateral immigration agreements
they should not expect that the provisions in the Canada-Quebec agreement would necessarily be incorporated into theirs.

As had been envisioned in the Meech Lake communiqué issued by the first ministers in 1987, the 1991 Canada-Quebec agreement enlarged the scope of Quebec's authority in immigration beyond what it had been under the Cullen-Couture agreement in several key facets of the immigration planning and management process. First, it authorized Quebec to perform a key role in determining the proportion of immigrants that it would receive annually. More specifically the agreement authorized Quebec to determine whether, "for demographic reasons," the percentage of immigration destined to that province should be up to five percent more than the base which under the agreement had been set at a percentage of total immigration proportional to that province's percentage of the Canadian population.289

Second, the 1991 agreement, authorized Quebec to select certain applicants in the independent immigrant category whom, on compassionate humanitarian grounds, the federal government allowed to apply for landed immigrants status from within Canada. This included both those who had been refused refugee status and others who had not been processed as refugee claimants.290 In all such cases Quebec had both a positive and a negative veto. In effect, this meant that
Quebec could select all applicants for permanent resident status, except those whom the federal government recognized as refugees. Section 20 of the 1991 agreement stipulated that: "Where permanent resident status is granted to a person already in Quebec who is recognized as a refugee, Quebec's consent shall not be required." The federal government wanted to retain control over refugee determination in order to ensure that all such applicants would be treated uniformly across the country. From the federal government's perspective its obligations under the United Nations' Convention on Refugees necessitated the retention of full control of the refugee determination process and the landing of such refugees in all provinces and territories.

Third, the 1991 agreement, unlike the 1978 agreement, authorized Quebec to apply criteria established by the federal government in the selection of family class immigrants as well as assisted relatives destined to that province. These particular provisions in the 1991 agreement constitute what Peter Leslie labelled administrative devolution from one order of government to the other. The provision authorizing Quebec to apply federal selection criteria for family class members is a curious one. At the time the agreement was signed no federal selection criteria existed for family class applicants comparable to the one used for selecting
independent immigrants, including the assisted relative category. Family class members merely needed to meet the basic health and security standards outlined under the federal admission criteria. Evidently, the provision was included in anticipation of the possibility that in the future the federal government might either establish such criteria or modify the immigrant categories. Quebec’s decision to seek the authority to apply federal selection criteria to assisted relatives and family class members was based on the belief that if such criteria were ever established it would provide it with a means to perform a key role in the selection of approximately half of the total immigration flow to that province each year.

Fourth, the 1991 agreement, unlike the Cullen-Couture agreement of 1978, authorized Quebec to supplant the federal government in planning and managing all reception and settlement (integration) services within that province. The decision of the Mulroney government to accede to the demands of the Bourassa government for withdrawal from settlement with compensation is particularly interesting in light of the fact that the Trudeau government had balked at that demand by Lévesque’s Parti Québécois government. The agreement stated that:

24. Canada undertakes to withdraw from the services to be provided by Quebec for the reception and the linguistic and cultural integration of permanent residents in Quebec.
25. Canada undertakes to withdraw from specialized economic integration services to be provided by Quebec to permanent residents in Quebec.

Annex B of the 1991 agreement listed the services from which the federal government would be required to withdraw:

1. Canada shall withdraw from the following reception and linguistic, cultural and economic integration services:

- Adjustment Assistance Program (AAP)
- Immigrant Settlement and Adaptation Program (ISAP) including the Job Finding Clubs
- Host Program for Refugees (HPR)
- Settlement Language Training Program (SLTP)
- Direct Course Purchases and Training Allowances for Language Training (Language Training under the CJS)
- The parts of the Citizenship and Community Participation Program (CCPP) dealing with the integration of immigrants
- The Counselling and Placement of Immigrants (CPI)/Canada Employment Centre and certain immigrant services provided in the regional CECs, as well as airport reception services for refugees selected abroad.

The agreement also stipulated that the federal government would be obliged to compensate Quebec for planning, managing, and delivering such services, provided those services corresponded to similar federal services in other provinces and were offered without discrimination to any permanent residents who qualified for such services.
irrespective of whether they had been selected by federal or Quebec officials:

26. Canada shall provide reasonable compensation for the services referred to in sections 24 and 25 provided by Quebec, if:
(a) those services, when considered in their entirety, correspond to the services offered by Canada in the rest of the country;
(b) the services provided by Quebec are offered without discrimination to any permanent resident of Quebec, whether or not that permanent resident has been selected by Quebec.

The federal government is therefore withdrawing from these services and will provide financial compensations to Quebec so that the services it offers will be equivalent overall to those offered by the federal government elsewhere in Canada.

Annex B of the 1991 agreement outlined the level of compensation for the first four years of the agreement ($75 million for 1991-92, $82 million for 1992-93, $85 million for 1993-94, and $90 million for 1994-95). It also contained a complex formula for adjusting that amount in subsequent years based on the proportion of immigrants and refugees destined to Quebec annually.295

Whenever the federal Minister of Immigration discussed that Quebec would be receiving compensation for providing reception and settlement services for immigrants, she explained that the level of compensation was higher than if a formula based on the average level of federal expenditures in all provinces for such services had been used. The
decision to use the former formula was that the province incurred extra costs in providing settlement services due to the linguistic background of immigrants and the added effort that Quebec would have to make to teach French to immigrants on continent where English prevailed. In her words:

This compensation takes into account the extra costs that accrue to Quebec given the fact that from year to year only one-third of the province’s immigrants speak French while half of the immigrants to the rest of Canada speak English. The compensation also recognizes the additional costs Quebec faces in integrating its immigrants to a French speaking lifestyle within a preponderantly English speaking North American culture. 296

It is unclear whether the Minister was merely trying to justify why this level was, at least in proportional terms, slightly higher than the amount of money that the federal government was spending in other provinces at that time, or whether there was also an implicit message to other provinces seeking similar arrangements not to do so based on calculations that they would receive the same level of compensation as Quebec.

The Canada-Quebec agreement of 1991 also stipulated that the federal government’s withdrawal from providing the aforementioned services did not include withdrawal from the provision of services related to economic integration offered as part of various national occupational training programs:
27. The obligation to withdraw with compensation contemplated by section 25 does not apply to economic integration services provided by Canada on an equal basis to all residents of the country.

Supplanting the federal government in labour-market planning and training would become the next major objective of the Bourassa government in its post-Charlottetown strategy of supplanting the federal government in planning and managing various policy fields with compensation via bilateral executive agreements.

The agreement also stipulated that the federal government would continue to exercise exclusive responsibility for citizenship services and that its right to provide Canadian citizens various services related to multiculturalism would not be circumscribed:

28. Canada alone shall have responsibility for services relating to citizenship.
29. Nothing in this agreement shall be construed as restricting the right of Canada to provide services to Canadian citizens relating to multiculturalism or to promote the maintenance and enhancement of the multicultural heritage of Canada.

The other major item in the 1991 agreement pertained to the roles of the federal and Quebec governments in the selection of investor immigrants. The relevant provisions were included in Annex D of that agreement which was the product of a letter of understanding which had been concluded in 1990. To understand the nature of those provisions it is useful to trace their development.
Although the Cullen-Couture agreement and the related joint administrative directives stipulated the procedure for the selection of independent immigrants, including entrepreneurs and self-employed persons, they did not contain provisions specifically designed to deal with certain aspects of the process to select immigrant investors, a new category of business immigrants established in 1986. In the fall of 1986 Quebec developed its own immigrant investor program. The federal and Quebec governments had a tacit understanding that the principles of the Cullen-Couture agreement regarding the selection of other business immigrants would be extended to investors. That understanding was formalized in an agreement concluded in January 1990.

In December 1987, the federal government amended its regulations on the immigrant investor program.297 A key amendment, which went into force on March 31, 1988, prohibited investment brokers in the provinces to extent loans or investment guarantees to applicants in the investor category for either some or all of the $250,000 which they were required to invest in small-sized Canadian companies.298 According to the federal Minister of Immigration, Benoit Bouchard, the amendments reflected the spirit of a consensus reached by the governments in February, 1987.299 Nevertheless, Quebec continued to extend such loans or guarantees to investors destined to that province. Between 1987 and 1989 the other provinces
complained to the federal government that Quebec's practice of extending loans and guarantees to investors gave it an unfair advantage in attracting a disproportionate share of such immigrants.\textsuperscript{300}

In reaction to pressure from the other provinces, the federal government entered into negotiations with its Quebec counterpart to make the necessary adjustments to that province's regulations.\textsuperscript{301} It tried to do so in its negotiations of the 1990 agreement between Canada and Quebec on immigrant investors but did not succeed. According to that particular agreement the levels of financial investments required under Quebec's program would be the same as those required under the federal program. Apart from this basic requirement, the only other limitation to Quebec's immigrant investor program was the vague principle that it had to be consonant with the objectives and spirit of the federal immigrant investors program. In case of difficulties in agreeing on a particular application, federal and Quebec officials would meet to deal with the matter.\textsuperscript{302}

During the negotiations on the 1991 agreement the federal government again tried to constrain its Quebec counterpart to accept certain provisions that would have provided a greater degree of uniformity in the investor program.\textsuperscript{303} The Quebec government refused any changes to the existing arrangements. It argued that it had the right
to establish its own selection criteria including matters such as the definition of investor, levels of investment required, and eligible investment ventures. The provisions in Annex D of the 1991 agreement suggest that the preferences of the Quebec government prevailed on this particular issue. The Annex stipulates that Quebec would have the authority to establish regulations "...respecting the selection of foreign nationals, including the definition of investors, minimum investment, eligible business or commercial venture and guarantee." The only restriction was that this should be consonant with the "objectives and spirit" (but not necessarily the precise terms and conditions) of the federal regulations. The Annex added that if applicants met the Quebec criteria, Canada would, "subject to statutory requirements for admission," issue that immigrant a visa.

The foregoing summary of key provisions in the 1991 agreement reveal that the Bourassa government was able to convince the Mulroney government to accede to most, if not all, of its demands on the alignment of roles between them in various phases of the immigration process. The only significant objective on which the Bourassa government did not succeed was the constitutionalization of the agreement.

The lack of success on this objective was not due to the federal government's refusal to constitutionalize such agreements, but the failure of both the Meech Lake and
Charlottetown constitutional accords which contained the mechanism for doing so. In 1991, after McDougall/Gagnon-Tremblay agreement had been signed, the federal government reiterated the commitment which it had made at the start of the negotiations on the Meech Lake Accord to establish a mechanism for constitutionalizing immigration agreements. Its 1991 proposals on constitutional reform stipulated that in order "...to ensure greater security for...[bilateral federal-provincial] agreements, the Government of Canada proposes to constitutionalize the agreement with the province of Quebec, and any other agreements that are negotiated."304 That document did not stipulate whether the final text on constitutional amendment would contain the same entrenchment mechanism which had been included in the "Immigration Clause" of the Meech Lake Accord, or some modified version thereof. That would not be known until September 1992 when, just one month prior to the referenda on the Charlottetown Accord, the final text on constitutional amendment was released.395

The final text of the Charlottetown Accord contained essentially the same Immigration Clause which had been included in the Meech Lake Accord for entrenching constitutional accords. The only major change was the addition of two sub-sections; one of which required that the federal government conclude an agreement with provinces within a reasonable time, and one which invoked the
principle of equality of treatment of the provinces, albeit with the important qualifier that the agreement of each province should take into account the "...different need and circumstances of the provinces."306 As shall be discussed in the next chapter, those particular provisions were included at the behest of the other provinces, but particularly Alberta, who had been frustrated by the federal government in their efforts to negotiate bilateral immigration agreements.

The rejection of the Charlottetown Accord in the referenda of 1992 has left the federal and Quebec governments without a mechanism for constitutionalizing the McDougall/Gagnon-Tremblay agreement. Consequently it remains vulnerable to abrogation by either government and the constitutionality of some provisions therein remain vulnerable to court challenges either by individuals who are affected by them or any other interested parties, including any of the eleven senior governments. This situation exists because the decision of amending the constitution to provide for the entrenchment of immigration agreements could not be made on a bilateral basis. Although the federal and Quebec governments were free to determine the alignment of roles between them via bilateral agreements without the support of any legislature, including their own, constitutionalization of such agreements required the approval of Parliament and the legislatures of at least seven provinces with fifty
percent of the population. This requirement meant that decisions regarding a mechanism for constitutional entrenchment of agreements could not be made within the arena of executive federalism. In the case of Meech Lake any constitutional amendments had to be ratified by federal and provincial legislators, and in the case of the Charlottetown Accord also by the majority of the electorate. Executive federalism, which had operated relatively unhampered for more than two decades in shaping the alignment of roles between the federal and Quebec governments on a bilateral basis, had encountered a constitutional obstacle which could not be surmounted by their shared interests and the pooling of their resources. It remains to be seen whether the 1991 Canada-Quebec immigration agreement, or any that supersede it, will be constitutionalized in the future.

Conclusion

The central objective in this chapter has been to ascertain the determinants of the alignment of roles between the federal and Quebec governments in the various phases of the immigration process between 1971 and 1991. In doing so, this chapter has entailed two major analytical tasks. First, to identify the preferences of successive federal and Quebec governments regarding the alignment of roles and the factors which shaped the same. Second, where their
respective preferences diverged, to ascertain which government's preferences prevailed in the resulting alignment of roles and why.

The evidence presented in this chapter reveals that between 1971 and 1991 the preferences of successive federal governments and their Quebec counterparts on the alignment of certain roles in the various phases of the immigration process generally did not coincide. Whereas successive federal governments generally preferred to perform all of the key roles in planning and managing immigration destined to that province, their Quebec counterparts also wanted to perform some key roles in various phases of the immigration process. The evidence also reveals that in all cases where the alignment of roles between successive federal governments and their Quebec counterparts was modified, it was instigated by the latter. Unlike their federal counterparts who generally preferred to maintain the existing alignment of roles successive Quebec governments, without exception, wanted the alignment modified. Furthermore, the evidence also reveals that successive federal governments were, without exception, reluctant to accede to the demands of their Quebec counterparts to modify the alignment of roles.

The evidence presented in this chapter reveals that the preferences of both the federal governments and their Quebec counterparts were a function of calculations regarding the
advantages and disadvantages that performing such roles would have on their respective regime and non-regime interests. The findings on their respective calculations are discussed in turn below.

The preferences of the Quebec governments regarding the alignment of roles in the various phases of the immigration process were rooted in their calculations of how performing key roles in immigration would be advantageous for each of their regime and non-regime interests. In terms of their regime interests the evidence presented in this chapter reveals that successive Quebec governments calculated that seeking and obtaining a realignment of roles in immigration would be advantageous for both their electoral interests and also for their regime-capacity and regime-legitimacy interests. In the case of their electoral interests they calculated that seeking and obtaining additional roles in immigration would boost their electoral support among autonomists and sovereignists in that province. In the case of their regime-capacity interests they calculated that performing key roles in the field of immigration would provide them with additional jurisdictional authority to pursue their social and economic development objectives. As well, they calculated that performing such roles could enhance the capacity of the provincial governments indirectly. More specifically, they calculated that by utilizing such jurisdictional authority they could pursue an
immigration policy that would significantly augment the number of immigrants destined to that province which, in turn, would contribute to maintaining and perhaps even augmenting the province's clout within the federation both via the federal electoral system which consists of electoral districts based on population, and via any amendments to the constitution which utilized formulas in which the size of a province’s population was a significant factor. As well, they calculated that an increase in the population through immigration would also contribute to the financial component of their regime-capacity interests because various federal transfers to the provinces utilize per-capita formulas.

In the case of their regime-legitimacy interests, successive Quebec governments calculated that a realignment of roles in immigration would help to enhance the provincial government's legitimacy in the eyes of the francophone majority in that province, and particularly those who espoused autonomist and sovereignist sentiments. They also calculated that performing such roles would enhance the legitimacy of the provincial order of government among new immigrants who were recruited, selected, and settled by the province.

The quest of the Quebec governments for a realignment of roles was also based on their respective calculations that it would be beneficial for their non-regime interests. In the case of their social and economic development
interests they calculated that performing key roles in immigration would contribute to their efforts to facilitate what they deemed the proper social and economic development of the province. Successive Quebec governments also calculated that performing additional roles in immigration would be beneficial for their system-development interests. In this respect, however, the calculations of the Liberal and Parti Québécois governments in power during that time were significantly different. The difference stemmed from the fact that the Liberal governments wanted to retain the existing federal system, albeit in a slightly more decentralized form, the Parti Québécois governments wanted to transform it. More specifically, whereas Liberal governments wanted to perform key roles in immigration because it served as an example of how the social and economic development of Quebec could be realized within the Canadian federal system, the Parti Québécois governments wanted to do so because it served an example of how sovereignty-association would work. Indeed, from the Parti Québécois governments' perspective supplanting the federal government in immigration was seen as a small, but important, first step towards sovereignty-association.

Before ending this section on the preferences of the Quebec governments an important question must be addressed: Why did they prefer to perform key roles in planning and managing immigration rather than merely utilize their
capacity, which as shall be discussed below was extensive, to constrain their federal counterparts to develop an immigration policy which was consonant with their social and economic development objectives? The answer to that seems to be twofold. First, the historical legacy of federal immigration policies on Quebec suggested to them that such an approach was unlikely to be successful. Second, and more importantly, assuming key roles in immigration was part of the broader effort of successive Quebec governments of the past three decades to develop the provincial state apparatus. Exercising key roles in immigration was an integral component of those efforts both at the practical and symbolic levels because, as noted above, it served their regime-capacity and regime-legitimacy interests. As well, of course, this particular approach also served their electoral interests insofar as it helped them consolidate their support among autonomists and sovereignists in that province.

To reiterate, successive federal governments in power between 1971 and 1991 preferred that they, rather than their Quebec counterparts, performed the key roles in planning and managing immigration. The only facets of the immigration process in which they welcomed and in some cases even encouraged participation by their Quebec counterparts were: delivering and funding immigrant settlement services; evaluating and making recommendations on applications from
students, persons seeking medical attention, and business immigrants; setting annual immigration levels; and setting and enforcing criteria for sponsors.

The preferences of successive federal governments regarding the alignment of roles were rooted in their own calculations regarding the advantages that performing certain roles would have for their regime and non-regime interests. In terms of their regime interests the federal governments calculated that performing such roles would be advantageous for their electoral, regime-capacity and regime-legitimacy interests. In the case of their electoral interests they calculated that it would be somewhat, though by no means extensively, advantageous for their electoral support in provinces other than Quebec where they believed support for federal control of the field of immigration was strong. In the case of their regime-capacity interests they believed that performing such roles would enhance the scope of their jurisdictional authority to plan and manage immigration in an efficient and effective manner for the entire country, including Quebec. They also calculated that such efficiency and effectiveness would contribute to their other regime interests, namely their regime-legitimacy interests. In the case of their regime-legitimacy interests they calculated that performing such roles in immigration, and doing so in an efficient and effective fashion would enhance the legitimacy of the federal order of government
among the public in Canada, including a substantial portion of the population in Quebec and especially those that espoused strong federalist sentiments. As well, they calculated that performing such roles would help to ensure that it would enhance the legitimacy of the federal order of government both among new immigrants and immigrant communities in Quebec.

The preferences of the federal governments were also based on their calculations regarding the advantages that performing such roles would have for their non-regime interests. In the case of their social and economic development interests the federal governments felt that performing key roles in planning and managing the various phases of the immigration process was essential to ensure that immigration would contribute to their vision of the social and economic development of all parts of Canada, including Quebec. From the federal point of view, the Quebec provincial governments did not have a monopoly on the will or responsibility to see the social and economic development of that province; they had their own vision and plans for such development. Successive federal governments felt that in order to realize their social and economic development objectives both for Quebec and the rest of the country they had to ensure that immigration was planned and managed in consonance with their population and labour-market policies. Furthermore, they believed that only by
retaining control of immigration could they ensure such consonance. There was considerable consternation among successive federal governments that if the provinces, and especially a large province such as Quebec, performed key roles in planning and managing immigration, it would likely hamper their ability to plan and develop the Canadian society and economy efficiently and effectively.

The evidence presented in this chapter reveals that in cases where the preferences of various federal and Quebec governments regarding the alignment of roles did not coincide, the latter were able to utilize the bargaining resources at their disposal to constrain their federal counterparts to agree to adopt the alignment of roles which they preferred. The ability of successive Quebec governments to constrain their federal counterparts to do so stemmed from their jurisdictional and, more importantly, their political resources. Their jurisdictional resources were derived from the concurrency provision in Section 95 of the constitution. That provision provided the requests of Quebec governments to perform certain roles with a modicum of constitutional legitimacy which made it difficult for federal governments to reject them outright. It was not those jurisdictional resources alone, however, that allowed the Quebec governments to constrain their federal counterparts to accede to their demands for key roles. After all, in some cases the federal governments could have
invoked their superior jurisdictional resources in the field of immigration derived from the paramountcy clause of sections 95 and exclusive jurisdiction over aliens under section 91(25) in preventing their Quebec counterparts from performing certain role, particularly in the selection of immigrants. They did not do so, however, because the Quebec governments had considerable political resources at their disposal which they were able to utilize in bargaining with their federal counterparts.

The political resources of successive Quebec governments were derived from the autonomists and sovereignists sentiments among a substantial portion of the population in that province which favoured increased provincial autonomy in various policy fields, including immigration. The Quebec governments were able to capitalize on such sentiments when bargaining with their federal counterparts. Their ability to do so stemmed from two major factors. First, in their efforts to win federal elections, successive federal governments attached considerable importance to the support of the Quebec electorate, including that portion which espoused such autonomists and sovereignist sentiments. Second, successive federal governments were concerned about the threat that autonomist and sovereignist movements in that province posed to the federal system and the territorial integrity of Canada. This is particularly true of the period after the election
of the Parti Québécois government in 1976 when the sovereignty-association option had gained considerable support as a viable alternative to the existing federation.

One of the key contributing factors to the success of the Quebec governments in constraining their federal counterparts to accede to their demands may have well been the prudence they exhibited in adopting a strategy of incrementalism in their efforts to assume key roles in planning and managing immigration destined to that province. In every instance they were careful not to over-extend their involvement in planning and managing immigration until they had developed the requisite human and organizational capacity to do so in a relatively effective fashion. Had they not pursued such a strategy, their experience in the field of immigration may have been significantly different, and so too would the alignment of roles between them and their federal counterparts, the nature of federal-provincial relations, and perhaps even the nature of the Canadian federal system.

Although the aforementioned factors tipped the balance of bargaining resources in favour of the Quebec governments, their federal counterparts were not entirely without some bargaining resources of their own. The most important by far were their jurisdictional resources noted above. In light of such jurisdictional resources it would have been very difficult, if not impossible, for Quebec governments to
perform certain roles, particularly in the selection of immigrants, without the consent of their federal counterparts. As well, the federal governments were not without some, albeit relatively limited, political resources of their own. They believed that they had strong support outside Quebec, as well as among so-called devout federalists within Quebec, for their preference to perform the key roles in planning and managing immigration. Furthermore, they believed that, with the possible exception, of France, they also had the tacit support of the governments of immigrant-source countries in making a decision on whether Quebec's immigration officers would be allowed to engage in immigration-related activities on their territory. Successive federal governments tried to utilize those resources to constrain their Quebec counterparts to agree to minimal, rather than maximum, changes to the existing alignment of roles. Their reasons for doing so, of course, stemmed from their desire to retain extensive control in planning and managing immigration because, as explained above, they calculated that such control was essential for efficiency and effectiveness in planning immigration which, in turn, they deemed advantageous for their regime and non-regime interests.

In sum, the evidence presented in this chapter reveals that the alignment of roles between the federal and Quebec governments during this era was the product of both their
respective preferences and the effectiveness with which they utilized their respective bargaining capacity to constrain each other to accept a particular alignment. The determinants of the alignment of roles between successive federal governments and their counterparts in other provinces are the subject of the next chapter.
ENDNOTES

1. For a brief historical overview of Quebec's initiatives in immigration between 1760 and approximately 1980 see Fernand Harvey, *La question de l'immigration au Québec* (Texte présenté au Conseil de langue française) [Mimeographed, 1985], 1-55.


7. Ibid., 39.


12. See for example the following articles written by André Laurendeau in Le Devoir between 1951 and 1956: "L'immigration et les Canadiens français," Le Devoir (March 8, 1951); "Veut-on ruiner l'immigration française?," Le Devoir (January 29, 1952); "Immigration britannique, immigration française," Le Devoir (May 20, 1952); "Le Canada français enregistre des pertes catastrophiques," Le Devoir (December 15, 1954); "Plus immigrants à Toronto que dans tout le Québec," Le Devoir (January 27, 1956); "Une politique de cannibale?" Le Devoir (January 31, 1956).


15. Ibid., 148.


21. Ibid., 312-313.

22. Ibid., 313-314.

23. Ibid., 314.

24. Ibid., 314-315.


27. According to the Director General of Quebec's immigration Service it was not until 1966 that such resources were allocated. See Frank Howard, "Quebec department to woo immigrants?" Globe and Mail (August 30, 1966).

28. See Quebec, National Assembly, Debates (February 10, 1965), 463, and also (February 17, 1965), 645. During the exchange of February 17, 1965 René Lévesque, speaking for the government side, suggested that there were four facets of immigration which the provincial government should consider assuming a key role: reception, employment placement, education, and selective recruitment. See Quebec, National Assembly, Debates (February 17, 1965), 638.


31. See René Tremblay, Minister of Citizenship and Immigration, Canada, House of Commons, Debates, Vol. 7 (1964), 6389.


33. Gagnon and Latouche, Allaire, Bélanger, Campeau, 35.

35. Ibid.


37. Ibid., 127; 138-139.

38. See interview with Jacques Brossard in Frank Howard, "New guidelines for wooing and choosing immigrants," *Globe and Mail* (June 10, 1967); and also interview with Yves Gabias, Quebec's provincial Secretary on the five elements of a provincial initiative in immigration in "Needed Federal Agreement: Own Immigration Policy is Developed by Quebec," *Edmonton Journal* (December 20, 1967).

39. One of the key elements of the Union Nationale's electoral platform had been the establishment of a full-fledged immigration department. See Thomas Sloan, "Quebec and Immigration," *Montreal Star* (May 19, 1967).

40. For a commentary on the imperatives of Quebec's involvement in immigration at that time see, "La Presse Likes Quebec Immigration Stand," *Montreal Gazette* (December 29, 1967).


42. For a summary of the major points in Morin's book see Hawkins, *Canada and Immigration*, 217-219.


44. An address given by Marcel Masse, Quebec Minister of Education to the Club Richelieu-Montreal, May 4, 1967. For a summary of the key elements of the speech see Freda Hawkins, *Canada and Immigration*, 220.

45. Ibid.


53. For an excellent analysis of the shared policy and program objectives of the federal and Quebec governments in immigration, but differences between them regarding the alignment of roles see Grenier, "Les relations fédérales-québécoises," 1-25; 54-92; 108-159.

54. See statement by the Minister of Manpower and Immigration, Jean Marchand, on the results of his trip to France to discuss immigration to Quebec with French officials, in Canada, House of Commons, *Debates* (September 8, 1966), 8192. See also the comments by the deputy minister and assistant deputy minister of immigration in *Le Devoir* (March 18, 1966), 8.


56. See comments to this effect by the federal minister of Citizenship and Immigration, René Tremblay, Canada, House of Commons, *Debates* (March 25, 1964), 1547.

57. See Comments by Quebec’s minister responsible for immigration in "Own Immigration Policy is developed by Quebec," *Edmonton Journal* (December 20, 1967); and Hawkins, *Canada and Immigration*,

59. See "Quebec Reveals Plans to Create its Own Immigration Department," *Globe and Mail* (February 17, 1968), 11; and "Québec créera un ministère et un counsel de l'immigration," *Le Devoir* (February 17, 1968), 1.

60. See "Quebec Reveals Plans to Create its Own Immigration Department," *Globe and Mail* (February 17, 1968), 11; and "Québec créera un ministère et un counsel de l'immigration," *Le Devoir* (February 17, 1968), 1.

61. Quebec, "Immigration Department Act," Statutes of Quebec, Chapter 68, 1968. For an excellent overview of the politics, administrative arrangements and costs of Quebec's Ministry of Immigration which subsequently became the Ministry of Immigration and Cultural Communities, see Hill, "Politiques d'immigration et reproduction sociale," 242-297.

62. See summary of interviews that Freda Hawkins conducted with elected and appointed provincial officials on this issue in Hawkins, *Canada and Immigration*, 219, 221-222. The concern of the Quebec government on the amount of financial resources it could devote to establishing offices abroad was expressed by Quebec’s Provincial Secretary, Yves Gabias, in an interview in December 1967. See "Need Federal Agreement: Own Immigration Policy Is Developed by Quebec," *Edmonton Journal* (December 20, 1967), 5.

63. See statements by Quebec’s Provincial Secretary, Yves Gabias, in *Le Devoir* (February 17, 1968), 1.

64. See summary of statements made by Quebec officials on this issue in Hawkins, *Canada and Immigration*, 221-222.

65. Confidential Interviews with federal officials.


67. Confidential interviews with federal officials.

68. Ibid.

69. See Kenneth McRoberts, *Quebec: Social Change and Political Crisis*, third edition (Toronto: McClelland and Stewart, 1988), 216. Trudeau's views on the effect that special status would have on the effective operation of the federal system are evident.
in the following statement he made as federal Justice Minister in 1966 after attending a meeting of the Quebec Liberal federation: "We rejected any kind of special status for Quebec. In essence...nally the same in relation toward the central government." Cited in Richard Simeon, Federal-Provincial Diplomacy (Toronto: University of Toronto Press, 1970), 68. At its 1967 meeting the Quebec Liberal Federation proffered the special status option to combat René Lévesque's call for a sovereign Quebec, but it did not formally endorse it. See Gagnon and Latouche, Allaire, Belanger, Campeau, 78; and Latouche, Canada and Quebec, 44-45.


71. Such concerns among federal officials in the late-sixties and early-seventies are articulated in an article written by the A.W. Johnson, who was Deputy Minister of Finance at that time. See A.W. Johnson, "The Dynamics of Federalism in Canada," Canadian Journal of Political Science X:1 (March 1968), 26-32. Both A.W. Johnson and former Prime Minister Trudeau would reiterate their concerns regarding the implications of special status for Quebec during the Meech Lake and Charlottetown rounds of constitutional reform two decades later. See A.W. Johnson, "A National Government in a Federal State," in Duncan Cameron and Miriam Smith (eds.), Constitutional Politics (Toronto: James Lorimer, 1992), 78-91.


73. Confidential interviews with federal officials.

74. The most notable example of such criticism is found in Rosaire Morin, l'Immigration, 135.

75. In 1966, for example, Ottawa had facilitated the efforts of the Manitoba government to recruit several hundred garment workers under a special pilot project designed to fill shortages in that province's garment industry. See "Ottawa Cramps Recruiting: Spivak," Winnipeg Free Press (December 2, 1966); and Don Newman, "Immigration plan gets green light," Winnipeg Tribune (December 2, 1966).

76. For an example of media support for the Quebec government's decision to assume key roles in immigration see "La Presse Likes Quebec Immigration Stand," Montreal Gazette (December 29, 1967).
77. The Quebec Minister of Immigration, Mario Beaulieu, had indicated that the Quebec government wanted to place immigration agents in Quebec Houses in Europe and the United States. See Ronald Lebel, "Quebec unveils program to attract more immigrants," Globe and Mail (October 1, 1969). See also "Need Federal Agreement: Own Immigration Policy is Developed by Quebec," Edmonton Journal (December 20, 1967) 1.

78. Eventually, in 1971 the immigration officer in Milan was transferred to the federal visa in Rome pursuant to terms and conditions of the Canada-Quebec immigration agreement.


81. For an overview of the conflict between the federal and Quebec government in International Affairs at that time see Morin, Quebec Versus Ottawa, 41-56; Louis Sabourin, Canadian Federalism and International Organizations: A Focus on Quebec (Ottawa: Institute for International Cooperation, 1971); and Claude Morin, L’art de l’impossible: La diplomatie Québécoise depuis 1960 (Montréal: Boréal, 1987), 7-235.

82. For an overview of the federal-provincial negotiations on constitutional patriation and reform in the late-sixties see Simeon, Federal-Provincial Diplomacy, 88-123.

83. Confidential interviews with federal officials. For a discussion of the dynamics of the nationalist movements during the mid- to late-sixties see Coleman, The Independence Movement in Quebec, 219-222. The Parti Québécois obtained approximately 23% of the vote in the 1970 provincial election. For 1970 election results see Alain G. Gagnon and Mary Beth Montcalm, Quebec: Beyond the Quiet Revolution (Scarborough: Nelson Canada, 1990), 204.

84. For an analysis of those agreements by Quebec’s associate deputy minister of International Relations see André Dufour, "Les relations intergouvernementales en matière d’immigration: les ententes Ottawa-Québec," in Bernard Bonin (ed.), Immigration: Policy-Making Process and Results (Toronto: IPAC, 1976), 93. The editor of this book, Bernard Bonin, was Deputy Minister of Immigration for Quebec at the time.
85. For a discussion on the controversy regarding the negotiations on the inclusion of provisions that dealt with the provinces' role in international relations during the negotiations on the so-called Victoria Charter see Morin, L'art de l'impossible, 232-234.

86. Canada-Quebec Immigration Agreement of 1971, Section 2.

87. Ibid., Section 3.

88. Ibid., Section 10(a).

89. Ibid., Section 10(b).

90. Ibid., Section 11.

91. Ibid., Section 10(C). [Emphasis added]


94. Latouche, Canada and Quebec, 54.


96. Ibid.


100. See Coleman, The Independence Movement in Quebec, 149.

101. An example of one such analyst is Coleman, The Independence Movement in Quebec, 149. The symbolic importance of creating a full fledged ministry had been noted by Premier Daniel Johnson while he was leader of the opposition in 1965. See Hill, "Politiques d'immigration et reproduction sociale," 263-264.


103. Ibid., 131-132.


105. A discussion of key provisions in the federal government's Green Paper on Immigration regarding provincial involvement in this field is included in the next chapter. Here it suffices to note that the Green Paper stated that the federal government believed in close federal-provincial consultations on immigration matters and that federal-provincial collaboration was particularly essential in providing settlement services for immigrants. Canada, Department of Manpower and Immigration, Immigration Policy Perspectives (Ottawa: Minister of Supply and Services, 1974), ix.

106. Those views on the relationship between immigration and Quebec's demographic, socio-cultural and economic objectives were also underscored in province's policy paper on human resources and an article written by Quebec's Deputy Minister of Immigration, Bernard Bonin, who wrote that policy paper. See Quebec Ministry of Immigration, Une problématique des ressources humaines au Québec (December 1974); and Bernard Bonin, "L'immigration étrangère au Québec," Canadian Public Policy 1:3 (Summer 1975), 296-302.

107. Quebec, Department of Immigration, "Memorandum from the Quebec Minister of Immigration to the Federal Minister of Manpower and Immigration, in Anticipation of Publication of a Federal Green Paper on the Canadian Immigration Policy," (February 1974), 1.


110. See the 1974 Speech from the Throne, Quebec National Assembly, Debates (March 14, 1974), 1-6. See also the statement made by the Quebec Minister of Immigration to the National Assembly several days later, Quebec, National Assembly, Debates (March 26, 1974), 143-144. The Minister's statement was reprinted in Le Devoir. See Jean Bienvenue, "Le débat sur le discours du trône: Une politique d'immigration pour le Québec de 1974," Le Devoir (March 28, 1974).

111. See Quebec, National Assembly, Debates (March 26, 1974), 143-144; and Jean Bienvenue, "Le débat sur le discours du trône: Une politique d'immigration pour le Québec de 1974," Le Devoir (March 28, 1974).


113. Reference to the confidential letter of May 1974 is made in a newspaper article by Maurice Western, "No immigration Veto For Quebec," Winnipeg Free Press (June 14, 1974). See also "Le non d'Andras ne désarme pas Bienvenue," Le Devoir (June 14, 1974), 2.


115. See Canada, Special Joint Committee on Immigration Policy, Minutes of Proceedings and Evidence (April 9, 1975), 4:23.


117. See statement by the federal minister of immigration, Robert Andras to Standing Committee on Manpower and Immigration, Minutes of Proceedings and Evidence (April 30, 1974), 6:11.

118. For an overview of the history of language legislation in Quebec see Gagnon and Montcalm, Beyond the Quiet Revolution, 175-196.

119. Confidential interviews with Quebec officials.
120. See Grenier, "Les relations fédérales-québécoises," 83-84; 126-127.

121. See "Le non d'Andras ne désarme pas Bienvenue," Le Devoir, (June 14, 1974), 2.

122. Canada-Quebec Agreement of 1975, Section 6(a) of the main text and Section 2(c) of Addendum 1.

123. Canada-Quebec Immigration Agreement of 1975, Section 2(d) of Addendum 1.


125. Confidential interviews with federal and Quebec officials.


127. Coleman, The Independence Movement in Quebec, 150.


130. Ministère d'Immigration du Québec, Mémoire d'orientation (September 12, 1977), 50 as quoted by Grenier, "Les relations fédérales-québécoises," 79.


134. See Gagnon and Montcalm, Quebec: Beyond the Quiet Revolution, 182-183.
135. See "Quebec Wants Greater Control Over Immigration," Vancouver Sun (March 26, 1977), 18; and "Quebec, federal government to share immigration powers," Ottawa Citizen (May 28, 1977).


139. See House of Commons, Debates (May 18, 1977), 5755-5756; and also "Won't give Quebec power over Immigration--PM" Globe and Mail (May 19, 1977), 9.

140. See also Le Devoir (May 20, 1977), 1; and Grenier, "Les relations fédérales-québécoises," 87-88.

141. Ibid.


145. Confidential interviews with federal officials.

146. Confidential interviews with Quebec officials.

147. For some additional details on the provisions in the Cullen-Couture agreement see Vineberg, "Federal-provincial Relation," 314; and also Canada, Report of the Special Joint Committee on the Constitutional Amendment, 1987, 101-103.

148. Confidential interviews with federal and provincial officials.
149. See the Canada-Quebec Agreement, 1978, section V2. See also Canada, Employment and Immigration, Immigration Manual, chapter IE 6, section IE 6.05(6); and chapter IS 7, section 7.02(2a(iii)). For a discussion of Quebec’s settlement services for various categories of immigrants see Hill, "Politiques d’immigration et reproduction sociale," 354-414.

150. Confidential interviews with federal and provincial officials.


152. Québec, Ministère d’Immigration, Memoire d’orientation (September 12, 1977) 52, as cited by Grenier, "Les relations fédérales-québécoises," 79.


155. Marc Lalonde is quoted in "Quebec gets new Immigration Power, Montreal Gazette (February 21, 1978). John Ciaccia is quoted in "Immigration: ‘proof Confederation works’," Globe and Mail (June 1, 1977). For an example of a Quebec journalist who emphasized the importance of the agreement, see Irwin Block, "Canada-Quebec immigration pact displays flexibility," Montreal Star (February 1, 1978).

156. Claude Morin as quoted in Le Devoir (June 1, 1977), 3.

157. "Immigration: ‘proof Confederation works’," Globe and Mail (June 1, 1977). See also Jeffrey Simpson, "Accord with Ottawa gives Quebec say on immigration," Globe and Mail (February 21, 1978). In another article Jacques Couture is quoted as saying that his government would also like to obtain the power of admission and the right to issue visas. See "Couture accepts immigration pact," Montreal Star (February 21, 1978).

158. The Quebec government was fully aware of the federal government’s dilemma in this respect. See report of an interview with Quebec’s Minister of Intergovernmental Relations, Claude Morin, who co-signed the Cullen-Couture agreement on behalf of Quebec conducted in December 1980, in Grenier, "Les relations fédérales-québécoises," 88.


164. See, for example, "Immigration deal shows Ottawa, Quebec flexible," Kitchener-Waterloo Record (June 25, 1978); and "Making federalism work," Edmonton Journal (June 2, 1977).


166. Hawkins, Canada and Immigration, 213-214.


168. The Constitutional Committee of the Quebec Liberal Party, A New Canadian Federation (Montreal, 1980), 49.

169. Between 1978 and 1983 approximately 60,000 immigrants and refugees had been landed from within Canada. See "En 1982, le Québec a reçu 20 915 immigrant," La Presse (April 27, 1983); and Clement Trudel, "Quebec entend demander à Ottawa de modifier la loi sur l'immigration." Le Devoir (July 5, 1984).

171. See "Godin entend prendre en main l'établissement des immigrés," La Presse (November 18, 1980).


173. Interviews with federal officials.


175. Canada, Senate, Debates, March 30, 1988, 2990-2991. On that occasion Trudeau also criticized the provision to guarantee Quebec a certain percentage of immigrants.


178. Meeting of the Federal-Provincial-Territorial Deputy Minister's Committee on Labour Market Matters, Interprovincial\Territorial Framework for Immigrant Establishment\Insertion Sociale, [Mimeographed, 1983], 5.

179. For a detailed account and quotations of statements made by Prime Minister Trudeau on federal-provincial relations during the his last term in power see Milne, Tug of War: Ottawa and the Provinces Under Trudeau and Mulroney, 15; 23; 27-28. See also Doern and Phidd, Canadian Public Policy, 64; and Richard Simeon and Ian Robinson, State, Society, and the Development of Canadian Federalism (Toronto: University of Toronto Press, 1990), 283-290. The most direct criticism of a more decentralized federal system was his so-called "the enemy within" speech in Parliament. See Canada, House of Commons, Debates (April 15, 1980), 32-33.


182. See David Milne, The New Canadian Constitution (Toronto: James Lorimer, 1982), 160-163; Latouche, Canada and Quebec, 70; and Simeon and Robinson, State, Society and the Development of Canadian Federalism, 311-312.


185. Ibid.

186. See, for example, "Québec sélectionne avant tout des immigrants-investisseurs," Le Soleil (Nov 26, 1982).


188. See "Godin plans to counter 'disgusting' campaign," Montreal Gazette (February 13, 1984); Shirley Won, "Quebec hustling to win business from Hong Kong," Montreal Gazette (May 12, 1984).


190. Quebec Liberal Party, Mastering Our Future: Policy Program (February 1985), 49.


193. As cited by Robert McKenzie, "Quebec Liberals sounding a lot like the Parti Québécois," Toronto Star (June 3, 1989), D1.

194. Ibid.

195. Ibid.

196. Ibid.
197. Confidential interviews with Quebec officials. For an excellent analysis of the demographic imperatives that led the Bourassa government to press for an increased proportion of immigration during the Meech Lake round of constitutional reform see Michel Vastel, "En 15 ans, faute de maîtrises sa politique d'immigration: Le Québec a subi une perte de population égale à celle de Laval," Le Devoir (April 27, 1987).

198. "Quebec hopes to begin constitutional talks by November: Rémillard," The Ottawa Citizen (April 18, 1986), A5.


200. Ibid.

201. Ibid.


203. Ibid.

204. Confidential interviews with federal and provincial officials.

205. Québec, Ministère des Communautés Culturelles et de l'Immigration, Communiqué de Presse, "Québec participera au traitement de l'arrière des revendicateurs du statut de réfugié se trouvant sur son territoire" (December 7, 1989), 1-2.


207. In 1987 the Quebec government also decided to allow refugee claimants to enrol in French language classes. See Québec, Ministère des Communautés culturelles et de l'Immigration, Communiqué de Presse, "Les mesures de francisation à l'égard des revendicateurs du statut de réfugié," (February 15, 1987).

208. Ibid., 1-2.


212. See letter by Prime Minister Brian Mulroney, in La Presse (August 11, 1989), B3.


215. See Appendix A (Immigration by Province and Territories as a Percentage of Total Immigration to Canada 1980-1991), and Appendix B (Immigration to Quebec as a Percentage of Total Immigration to Canada 1962-1992). See also Sylvie Halpern, "Québécois demandés: En voie de dépopulation, le Québec a décidé d’ouvrir les portes: 30 000 immigrants d’ici 1990. Survivra-t-il au remède?" L’Actualité (February 1987), 94-99; and Don MacPherson, "Quebec Slips in quest for immigrants," The Montreal Gazette (January 30, 1988), B3.


218. For an analysis which suggests that Quebec’s authority in the selection of immigrants under the Cullen-Couture agreement would not, or at least should not, be deemed ultra vires by the courts see Jacques Brossard and Yves de Montigny, "L’immigration: ententes politiques et droit constitutionnel." La Revue Juridiques Thémis 19:3 (1985), 316-321. However, even they suggest that the constitutionality issue is delicate when it comes to the selection of immigrants where Quebec exercises its veto even though an applicant meets the federal selection criteria. See Ibid., 319.

219. Confidential interviews with federal and provincial officials.

220. For an analysis of those sections see Canada, Special Joint Committee on the Senate and the House of Commons, The 1987 Constitutional Accord, 97-106.


227. Confidential interviews with federal and provincial officials.


232. Graham Fraser, "Quebec to receive immigration power," Globe and Mail (June 26, 1990), A1.

233. Graham Fraser, "Quebec will one day sign Constitution, PM says," Globe and Mail (June 25, 1990), A1, A4.


235. Graham Fraser, "Quebec will one day sign Constitution, PM says," Globe and Mail (June 25, 1990), A1, A4.


237. Ibid.

238. Ibid.


240. Ibid. See also Pierre Avril, "Gagnon-Tremblay accuse Ottawa de trahir ses engagements en matière d'immigration," Le Devoir (September 27, 1990), A1-A2.

241. Ibid.


244. Graham Fraser, "Immigration deal transfers powers," Globe and Mail (December 24, 1990), A1-A2.


246. Ibid.

247. One poll indicated that in the wake of the failure of Meech Lake Accord the level of support for sovereignty-association had climbed to 62% and for outright independence 55%. For details of this and other related polls see Guy Lachapelle, et al., The
Quebec Democracy: Structures, Processes and Policies (Toronto: McGraw-Hill Ryerson, 1993), 137. A CROP poll conducted September 14-17, 1990 indicated that support for the Parti Québécois was at 43% and for the Quebec Liberal Party at 35%. See "Bourassa wants action on deal," The Star Phoenix (September 29, 1990), A15.


249. Ibid.

250. Confidential interviews with federal officials and provincial officials.

251. Ibid.

252. House of Commons, Debates (September 25, 1990), 13301.

253. Ibid.

254. House of Commons, Debates (October 23, 1990), 14585.

255. Ibid.

256. House of Commons, Debates (October 25, 1990), 14700.

257. House of Commons, Debates (October 31, 1990), 14935.

258. House of Commons, Debates (October 31, 1990), 14935.

259. Ibid., 14935.

260. House of Commons, Debates (November 27, 1990), 15797.

261. Ibid.

262. Ibid.

263. Ibid.

264. House of Commons, Debates (December 3, 1990), 16091.

265. House of Commons, Debates (December 3, 1990), 16091.

266. Ibid.

267. Ibid., 16098.

268. Ibid.
269. See Canada, Minister of Employment and Immigration, Press Release, "Canada-Quebec agreement on immigration," (December 27, 1990), 1-3; and Quebec, Communiqué de Presse, "Quebec et Ottawa annoncent la conclusion d'une nouvelle entente en matière d'immigration," 1-2.

270. Quebec, Communiqué de Presse, "Quebec et Ottawa annoncent la conclusion d'une nouvelle entente en matière d'immigration," 1-2.

271. Canada, Minister of Employment and Immigration, Press Release, "Canada-Quebec agreement on immigration," (December 27, 1990), 1-3; and Canada, Minister of Employment and Immigration, Press Release, "Canada-Quebec agreement on immigration," (December 28, 1990),


273. Ibid.


275. Ibid., 3.

276. Ibid., 2.

277. Ibid., 4.


279. Quebec, Ministry of Immigration and Cultural Communities Let's Build Quebec Together (December, 1990).

280. Ibid., 22.

281. Ibid., 24.

282. Ibid., 9.


286. Ibid., 2-3.

287. Ibid., 4.

288. Ibid., 3.

289. See sections 5, 6 and 7 of the 1991 Canada-Quebec agreement.

290. See sections 11 and 20 of the 1991 Canada-Quebec agreement.

291. See section 14 of the 1991 Canada-Quebec agreement.


294. See sections 24 to 27 of the 1991 Canada-Quebec agreement.

295. See Annex B sections 2.1-2.4 of the 1991 Canada-Quebec agreement.


299. Ibid.

300. See question asked of the Minister of Immigration by John Oostrom, a Progressive Conservative MP, House of Commons, Debates (May 6, 1988). See also Robert McKenzie, "Quebec Appeals Ban on Immigrant Loans," Toronto Star (February 29, 1988); Victor Malarek, "Quebec Sells Visas to Rich, Ottawa Says," Globe and
Mail (March 5, 1988); Shirley Won, "Ottawa Urged not to Dilute Immigrant-Investor Program," Montreal Gazette (March 5, 1988); "Ottawa ne modifiera pas son accord avec le Québec en matiere d'immigration," Le Soleil (May 7, 1988), C15; and Estanislao Oziewicz, "Criticism of Quebec cut from federal report: Investor immigrants cause friction," Globe and Mail (May 27, 1992), A5.


302. Quebec, Ministere des communautes culturelles et de l'immigration, Communiqué de Presse, "Immigrants investisseurs en valeurs mobilières: signature d'une entente complementaire à l'entente Cullen-Couture," (February 21, 1990), 1-2.


304. See Canada, Shaping Canada's Future Together: Proposals (Ottawa: Minister of Supply and Services, 1991), 34.

305. The principle of entrenching immigration agreements as well as similar agreements in other policy fields was endorsed by the Beaudoin-Dobbie Committee in its report issued on February, 27, 1992. Canada, Report of the Special Joint Committee on a Renewed Canada (Ottawa: Minister of Supply and Services, 1992), 80-81.

306. Canada, Minister of Constitutional Affairs, Draft Legal Text (October 9, 1992), 22.
CHAPTER 6
THE POLITICS OF THE ALIGNMENT OF ROLES
BETWEEN CANADA AND THE OTHER PROVINCES

Introduction

The central objective in this chapter is to ascertain the determinants of the alignment of roles between successive federal governments and their counterparts in provinces other than Quebec from 1971 to 1991. In doing so, and in keeping with the overarching objective of this study, this chapter entails two major analytical tasks. First, to identify the preferences of successive federal governments and their provincial counterparts regarding the alignment of roles, and the determinants of the same. Second, in cases where the preferences of a federal government and any of its provincial counterparts diverged, to ascertain which government’s preferences prevailed in the resulting alignment of roles and why. A subsidiary, but nonetheless very important, objective is to ascertain why the governments in these provinces did not perform most of the key roles performed by their Quebec counterparts in level-setting, recruitment, selection, or settlement at various junctures during that era.

The body of this chapter consists of four major sections, each of which corresponds roughly to one of the quinquennia between 1971 and 1991. In each section the principal focus will be on consultations, negotiations and
any resulting agreements between successive federal and provincial governments regarding the alignment of roles between them in the field of immigration. Nevertheless, attention is also devoted to explaining why some provincial governments were not engaged in any major negotiations or concluded any bilateral immigration agreements with their federal counterparts during that era.

Consultations, Negotiations and Agreements: 1971-1975

During the first quinquennium of the 1970s neither the Trudeau government nor any of its counterparts in the nine provinces other than Quebec sought a realignment of key determinative or co-determinative roles in planning and managing immigration. Both orders of government were more interested in developing mechanisms that would provide the provinces with a more efficacious consultative role. The signing of the Lang-Cloutier agreement between the federal and Quebec governments in 1971 which, as noted in the previous chapter, authorized the latter to place provincial officers in several federal offices abroad on a permanent basis to orient immigrants to employment and living conditions in Quebec, had not generated any interest among the provincial governments in the other nine provinces for such an arrangement. Despite a tacit understanding that if other provinces wanted to follow Quebec's lead to post their own orientation officers in federal offices abroad the
federal government would do its best to accommodate them, none of the other provinces expressed an interest in such an arrangement. This is not to suggest that some of them did not consider the merits of doing so. Ontario’s Provincial Secretary, John Yaremko, for example, acknowledged publicly that there were some potential benefits for the province to place immigration officers in federal missions abroad.\(^1\)

Ultimately, however, Ontario and the other provinces decided not to do so.

Their decisions not to do so was based on their calculations that posting their own immigration officers abroad on a permanent basis constituted an unnecessary and costly duplication of federal services. None of them believed that such an arrangement would produce significant benefits either for the social and economic development of their respective provinces or the immigrants that were destined there. The federal government’s commitment to continue to make its offices available to them during periodic excursions to recruit immigrants with special skills that were in short supply in their respective provinces served their objectives. They shared the view that the money required to cover the wages of immigration officers as well as the rental fees to the federal government and various related operating costs could be better utilized on other provincial programs. Another consideration among some of these provinces was that unless
they were prepared to place their provincial officers in most, if not all, countries in which the federal government had immigration offices, they would be vulnerable to charges of discrimination from groups supporting immigration from countries in which provincial officers were not located.\textsuperscript{2}

The federal government was by no means disappointed by their decision not to follow Quebec's lead in posting their officials in offices abroad. It felt that while Quebec officials could be accommodated in most offices with relative ease and without any major problems of coordination, the federal government was concerned about the logistical problems that could have resulted in also trying to accommodate officials from several, and possibly even all, of the other provinces. From the federal government's viewpoint, the only negative consequence of none of the other provinces signing an agreement and entering into similar arrangements was that it would augment asymmetry and the semblance of a special status for Quebec. Evidently such concern stemmed not only from a possible negative reaction from other provinces and the attentive public, but also from its potential effect on fostering separatist sentiments in the province of Quebec. Prime Minister Trudeau had expressed such concerns even before he entered federal politics.\textsuperscript{3} Shortly after becoming a cabinet minister, and particularly after becoming prime minister such concerns prompted his government to minimize the number
and scope asymmetrical arrangements which created the semblance of special status for Quebec. Recognizing that it would be difficult to reverse existing arrangements with Quebec or to block certain demands by the provincial governments in that province, the Liberal government had decided to adopt a new strategy whereby "...the special status which had been gained by Quebec would become a general status, to be enjoyed by all of the provinces." The evidence presented in subsequent sections of this chapter reveals that such a philosophy and approach only prevailed in the field of immigration until the late-seventies. Thereafter the federal government's concern over the prospect of decentralization in planning and managing immigration made it more willing to tolerate asymmetrical arrangements.

Although the provincial governments in the other nine provinces did not share their Quebec counterpart's interest in placing immigration officers in federal offices abroad, they did share its interest to establish bilateral federal-provincial consultative mechanisms to deal with immigration issues. Like their Quebec counterparts, the governments in the other provinces believed that such mechanisms were essential for rendering the federal immigration program more sensitive to their social and economic development objectives. Most of these provinces had been calling for the establishment of such mechanisms and procedures in
immigration since the mid-sixties. Some maintained that the bilateral federal-provincial Manpower Needs Committees, which had been established in the mid-sixties, were not ideal fora for dealing with the relationships between immigration and labour market issues.\textsuperscript{5}

The need for better federal-provincial consultative mechanisms to deal with the relationship of immigration and labour market issues was first addressed on a multilateral basis at the interprovincial conferences on manpower issues held during the first quinquennium of the 1970s. The briefing material prepared by the Alberta Department of Federal and Intergovernmental Affairs for those conferences provides some insight into the type of consultative mechanism that these provinces envisioned. According to Richard Dalon, an Alberta official at that time, the Alberta government wanted a consultative mechanism with the following features and functions:

1) The mechanism should be formal rather than informal, in order to ensure consistency and permanency of consultation.

2) The mechanism should be given authority to deal with a broad range of matters related to immigration as well as demography.

3) The mechanism should enable the federal government to discuss issues related to purely provincial immigration concerns, as much as it enables Alberta to discuss immigration issues related primarily to a federal concern....
4) Consultation should take place at a sufficiently senior level in the respective governments to ensure proper importance is placed on consultations.

5) A systematic approach should be adopted in establishing the mechanism in order to avoid the proliferation of ad hoc committees.

Alberta's briefing material recommended that a bilateral Canada-Alberta immigration committee be established with the following terms of reference.

To discuss and review generally all matters associated with or having an impact on immigration in Alberta and to coordinate the activities of the federal government and Alberta as they relate to immigration and demography, and more specifically, but not without restricting the generality of the foregoing:

1) to review national immigration policies and plans;

2) to review Alberta Government immigration policies and plans;

3) to coordinate the implementation of the respective immigration policies of the two levels of government;

4) to coordinate federal and provincial demographic studies;

5) to review specific immigration concerns and problems arising in Alberta; and

6) to review any matter dealing with the division of jurisdiction between the federal government and Alberta in the immigration field.

During the early-seventies the establishment of such bilateral federal-provincial committees was also advocated.
by the Quebec government in its brief submitted to the federal government, in briefs presented by other provincial governments to the Special Joint Committee of the Senate and the House of Commons established to hold hearings on the federal Green Paper on Immigration, and in that Committee's final report.' By the end of that decade such bilateral committees would be established in all provinces. After they were established such committees provided a forum for federal-provincial consultations on, among other issues, the alignment of roles between the two orders of government in various phases of the immigration process.

The issue of greater federal-provincial consultation and collaboration on immigration matters gained considerable prominence during the preparation and public debate on the federal Green Paper on Immigration. In preparing that Green Paper the federal government had made increased federal-provincial cooperation a key theme. Its decision to do so was influenced largely by the aforementioned calls from the provincial governments for improved consultative mechanisms. The Trudeau government, which at that particular time at least, had not yet become disillusioned with cooperative federalism, viewed such consultative mechanisms as important for facilitating federal-provincial collaboration. The importance which the Trudeau government attached to federal-provincial collaboration at that time, is evident in its Throne Speech of 1973 in which it committed itself to a
first Minister's Conference to "...plan further steps in the harmonization of goals, policies and programs for the benefit of all Canadians, particularly in fields that bear upon the responsibilities of both levels of government." In his opening statement at that conference, held in May of that year, Prime Minister Trudeau explained at some length his government's sectoral approach to federal-provincial relations and the increased efforts that would be made to facilitate federal-provincial collaboration on developing and implementing various policies and programs in various policy sectors.

The views of the federal and provincial governments on the virtues of federal-provincial collaboration in the field of immigration were echoed by the Joint Parliamentary Committee that was established to hold hearings on the Green Paper. In its report the Committee echoed the views of both the federal government and its provincial counterparts that vigorous efforts were "needed to involve the provinces more closely in order to ensure that immigration policy reflects varied regional requirements" and concluded that other provinces should follow Quebec's example in becoming more involved in this field of public policy.

The Committee is aware that the federal government would welcome other provinces following Quebec's example and hopes that collaboration will develop along the following lines:

-a permanent joint federal-provincial committee to coordinate the development
and implementation of immigration policy...;

-a provincial presence in immigration selection; this could involve sending officers abroad for counselling and promotional duties...;

-collaboration on scrutinizing teaching institutions receiving foreign students and on fixing the numbers of foreign students accepted by each institution;

-cooperation on immigrant services beginning with a joint evaluation of needs..."^{10}

The Special Joint Committee's statement that the federal government hoped that other provinces would follow Quebec's example and send officers abroad for counselling and promotional duties needs to be qualified. Although, as noted above, the federal government was receptive to periodic recruitment efforts by provincial officers for prospective immigrants with skills that were in short supply in their provinces and the country, it did not want these provinces to follow Quebec's lead in placing immigration officers in federal offices abroad on a permanent basis. Instead, as the following passage from its 1974 Green Paper on immigration reveals, the federal government was primarily interested in soliciting their views on how the federal immigration program could be adapted to meet the social and economic development objectives of the provinces, and in fostering closer federal-provincial collaboration in planning, managing and funding immigrant settlement services."^{11}
...there is no constitutional bar to more active and widened collaboration between the central government and the provinces, the purpose being to make immigration policy more sensitive to the latters' requirements. As already noted, numerous fields of provincial responsibility are immediately and directly affected by immigration decisions.....

...the Federal Government is now endeavouring to work in closer co-operation with the provinces as relates to the provisions of those services that immigrants may require to help them solve problems they encounter in adjusting to life in Canada....

Immigration policy development must take place within a framework that embraces longer term demographic, economic, cultural and social objectives. It follows that the value of regular exchanges between Ottawa and the provincial governments is not limited simply to matters that immediately concern effective program management. In the future, national policy formation could be enriched through consultation between the two levels of government which approaches immigration in the wider context of all those Canadian goals to which immigration's contribution is relevant.12

The nature and scope of provincial involvement that the federal government favoured in immigration during the early-seventies is evident in certain initiatives undertaken at approximately the same time that the Green Paper was tabled in Parliament. In most cases it merely involved limited consultative, rather than determinative or co-determinative, roles in planning and managing immigration to their respective provinces. In 1974, for example, the federal government decided to start consulting the provinces
on such matters as determining which occupational groups should receive bonus points under the federal immigration selection criteria in light of their respective labour market needs, and also whether visas should be issued both to students and persons seeking medical treatment destined to institutions in their respective territory. Shortly thereafter, the federal government also decided that the provinces should be consulted by the federal Minister of Immigration regarding the annual immigration levels. A provision to that effect was included in section 7 the Immigration Act which was proclaimed on August 10, 1978.

There were several reasons that the federal government wanted to increase consultation and collaboration with the provinces at that particular time. First, it hoped that it would end the perennial complaints by various provinces regarding the inadequacy of federal-provincial consultation and collaboration in immigration. Second, it hoped that letting the provinces make some decisions on whether visas should be issued to certain applicants that would utilize services provided at provincially funded institutions such as universities and hospitals would eliminate occasional complaints from the provinces regarding federal decisions about student visas. Third, as the excerpt from the Green Paper cited above reveals, the federal government hoped to foster a greater degree of federal-provincial collaboration in planning, managing and funding immigrant settlement
services. Finally, and perhaps most importantly, increased consultation and collaboration with other provinces on various aspects of immigration which interested the Quebec government would help to minimize the semblance that the latter was being given special status in this field of public policy. This final consideration started to become particularly important in 1975 when the federal and Quebec governments signed the Andras-Bienvenue agreement.

When the federal cabinet gave its approval for signing the Andras-Bienvenue agreement with Quebec it became concerned that it would be criticized by its counterparts and the attentive public in other provinces for giving Quebec an advantage in immigration without either consulting or offering the same arrangements to the other provincial governments. The federal government was not only concerned about the ramifications that such criticism could have had for its electoral interests in provinces outside Quebec, but also about the effect that it could have had both on federal-provincial relations and its renewed efforts to patriate and amend the constitution in particular. In an effort to preclude, or at least minimize, such criticism, it directed the federal minister of immigration to consult other provinces to see if any of them were interested in signing an agreement which authorized them to perform the same roles as Quebec.\(^{11}\)

In 1975, pursuant to Cabinet's request, the federal
Minister of Immigration, Robert Andras, contacted his provincial counterparts to determine whether any of them were interested in an immigration agreement comparable to the one he was about to conclude with Quebec. At that time none of these provinces expressed an interest in such an agreement. As in 1971, they were still not willing to devote the human and financial resources necessary to establish a provincial immigration service, especially one that included a network of recruitment and counselling officers in various countries abroad. At that time those provinces, with the notable exception of Ontario and to a much lesser extent Alberta, did not even have what might be termed an immigration unit, and most saw no need for one.

Even Ontario, which in previous decades had been the most involved of all the provinces in recruitment abroad showed no interest in such an agreement. By this time the Ontario government had already decided to terminate its recruitment operations abroad and to transfer the Selective Placement Programme, designed to recruit foreign workers for employers in that province, from Ontario House in London, England to Toronto. The decision to do so was based on two key considerations. First, the Ontario government had decided to close down most of its offices abroad partly due to its fiscal restraint initiatives and undoubtedly to a much lesser extent due to what has been described as "...fear that Ontario's international activities would lend
themselves to an image of a fragmented Canada." Second, it felt that it made little sense to operate the Selective Placement Programme out of London, at a time when recruitment for foreign workers was becoming a world-wide activity. A related concern was that continuing to concentrate its recruitment efforts in the United Kingdom may have subjected it to charges of discrimination from what was becoming an increasingly diversified immigrant community in that province. Rather than broaden its recruitment activity to more countries, as Quebec was doing, the Ontario government decided to shift its resources away from recruitment activities abroad towards settlement services in the province. Expanding and improving the services provided by Ontario Welcome House in Toronto and other major centres in that province became a key objective of the provincial government. Its decision to do so was influenced by two reports produced by the Ontario Economic Council during the second quinquennium of the 1960s the basic thrust of which was that the Ontario government should limit its involvement in immigration activities overseas and concentrate its efforts on developing immigrants settlement services in that province. Consequently, rather than supplementing the recruitment activities of federal officials at a considerable cost to itself, the Ontario government, unlike its Quebec counterpart, decided to rely on federal recruitment officers and the private sector to find the
workers. In 1975, the year that the Andras-Bienvenue agreement was signed, the federal and Ontario governments formally agreed that Ontario's officials involved with the Selective Placement Programme would serve only as intermediaries between employers seeking foreign workers and federal officials who would do the actual recruiting and interviewing abroad.\textsuperscript{19} The decision to shift its resources to settlement services was motivated in part by electoral considerations. The Ontario Conservative government felt that the federal Liberal government and by extension the provincial wing of the party was benefitting from the electoral support of immigrant communities because of the credit given to the former for its immigration program and services. Increasing its activity and profile in immigrant reception and settlement services was seen as an important means to develop some linkages with and electoral support within those communities.\textsuperscript{20}

The federal government was by no means disappointed with the decision of governments in the other nine provinces not to follow Quebec's lead to participate in the selection process, even if only at a consultative level. As in 1971 federal officials were still very concerned about the logistical and management problems that could result if other provinces were authorized to perform the same roles as Quebec both in recruiting immigrants and advising federal officials on the merits of certain applications during the
selection process. The fact that it had approached the other provinces, but none showed an interest in such an agreement did little to minimize the semblance of special status for Quebec in other provinces, but at least it gave the federal government a defense against any criticism that other provinces were not offered similar arrangements. ²¹

Although none of the provinces was interested in an agreement which authorized them to perform the same roles as Quebec in the recruitment and selection phases of the immigration process, some of them indicated that they were still interested in establishing formal bilateral consultative mechanisms on immigration. One of the first to do so was the Alberta government. In 1975 it indicated that a formal bilateral Canada-Alberta committee on immigration as envisioned in the briefing material of its Department of Federal and Intergovernmental Relations noted above should be established. After some consultations on the matter, the federal and Alberta ministers responsible for immigration agreed to establish a committee that consisted of at least two senior officials to consult on immigration matters. ²² However, no formal agreement was signed on the matter. The Lougheed government's decision to establish such a committee was part of a broader effort to create bilateral federal-provincial consultative mechanisms in all fields in which federal policy impinged on the economic development of that province. Such committees were deemed essential for the
success of the Lougheed government's economic development plan. Furthermore, it hoped that such committees could not only provide advance warning but possibly also preclude unexpected unilateral initiatives such as the federal government's decision to freeze the domestic price of oil and to impose an export tax on crude destined to the United States.

In summary, between 1970 and 1975 none of the other provinces wanted to perform the same roles as Quebec either in recruiting and counselling immigrants abroad or evaluating their suitability for immigration to their respective province. Instead, they wanted to perform limited consultative roles in advising their federal counterparts regarding the immigration needs of their societies and economies before the latter made decisions regarding matters such as the volume and nature of immigration that would be destined to each province. For most of those governments that did not change significantly in the second quinquennium of the 1970s. The notable exception was the Alberta government which, as shall be discussed below, began contemplating the possibility of performing some determinative or at least co-determinative roles in certain facets of the immigration planning process. However, even it did not have any intention of performing key management or administrative roles comparable to those which performed by its Quebec counterpart during that era.
Consultations, Negotiations and Agreements: 1976-1980

Unlike the first quinquennium of the 1970s in which there were no major negotiations between the federal government and any of its counterparts in the provinces other than Quebec regarding the alignment of their respective roles in immigration, during the second quinquennium such negotiations were undertaken with most provinces and bilateral immigration agreements were signed with five of them.

The impetus for those negotiations and agreements was provided by Trudeau’s cabinet and caucus in the fall of 1977. Upon being informed of the key provisions that would be included in the Cullen-Couture agreement, some cabinet and caucus members expressed concern about how such an agreement, which authorized a self-proclaimed separatist government to select immigrants and refugees, would be perceived both by the other provincial governments and also by the opposition parties in Parliament whose base of support was in provinces other than Quebec.26 As noted in the previous chapter, earlier that year the Progressive Conservative party’s immigration critic, Jake Epp, had expressed concerns regarding the government’s decision to grant a self-proclaimed separatist government a key role in selecting immigrants and suggested that the issue of Quebec’s authority in immigration should not be dealt with until the sovereignty-association issue had been
resolved. Other prominent parliamentarians, such as former Prime Minister John Diefenbaker, were also critical of the decision to grant Quebec such roles. Given such concerns and criticism, Trudeau's cabinet and caucus feared that without similar agreements with at least some of the other provinces, any advantages that concluding an agreement with the Parti Québécois government would have in furthering the federal government's electoral, regime-legitimacy, economic development, and system development interests in Quebec would be seriously compromised by negative reactions in other provinces both to the fragmentation of the federal government's authority to plan and manage immigration on a national basis and what could be perceived as granting Quebec special status in the field of immigration. To minimize that risk, and "to promote the image of cooperative federalism across the country" the Liberal government decided that an effort should be made to sign similar agreements with at least one or two other provinces.

Consequently, shortly thereafter, the new federal Minister of Immigration, Bud Cullen, decided to do what his predecessor had done in 1975; he invited the other nine provincial governments to enter into negotiations for such an agreement. Unlike his predecessor, however, the federal minister did more than simply invite the provincial governments to enter into such negotiations. Federal immigration officials were instructed to "pull out all
stops" in finding other provinces that might be willing to sign similar, but preferably not identical, agreements at approximately the same time that the Quebec agreement would be signed.⁴¹ That initiative began to pay dividends even before the Canada-Quebec agreement of 1978 was signed. In responding to criticism from the official opposition that Quebec was being granted special status, three weeks prior to the formal signing of that agreement, the federal Minister of Immigration was able to announce to the House of Commons that negotiations for a similar agreement were underway with five provinces, namely Nova Scotia, Prince Edward Island, Newfoundland, Saskatchewan, and Alberta.⁴²

Although the federal government was content to conclude agreements with any of the other nine provinces, for symbolic purposes it wanted agreements with at least one Western province and one Atlantic province. It is not merely a coincidence, therefore, that the federal Minister of Immigration had planned to sign bilateral agreements with Nova Scotia and Saskatchewan on the same day that he signed the agreement with Quebec. The original plan was that the one with Nova Scotia would be signed at a breakfast meeting, the one with Quebec at a luncheon meeting and the one with Saskatchewan at a dinner meeting. The first two agreements were signed as planned, but an emergency in Ottawa forced the federal Minister to postpone signing the Saskatchewan agreement for three days.⁴³ Within a year the federal

Although these agreements outwardly resembled the Cullen-Couture agreement, substantively they were much more limited in scope. Unlike the Cullen-Couture agreement, none of them authorized those five provinces either to recruit and select independent immigrants and refugees who applied from abroad, or to veto the issuance of visas to temporary workers. Instead, they only established the framework for engaging in bilateral federal-provincial consultations pertaining to various issues which needed to be considered by the federal government in planning and managing immigration. This included bilateral consultations on the levels of immigration, designating occupations, prioritizing the processing of various classes and categories of immigrants, establishing requirements to be met by sponsors of immigrants, and determining the merits of requests for foreign workers made by employers in their respective provinces. It is these differences between Quebec’s agreement and that of the other provinces which Vineberg is referring to in the following statement:

All other provincial agreements are very brief in comparison to the Quebec agreement. They avoid the detail necessary to establish a joint selection system but they do bind each party to extensive policy consultation and
exchange of information as well as specifying certain categories of immigrant, such as entrepreneurs, teachers and invalids, about which provincial input is mandatory."

The reason these agreements were much more limited in scope than Quebec's is that none of those particular provincial governments wanted to perform the same roles as their Quebec counterpart in selecting immigrants and refugees who applied from abroad. Indeed, this was also true of the other four provincial governments that did not sign such agreements. Instead, the principal objective of all these provinces remained, as it had been during the first quinquennium of the 1970s, to develop more efficacious federal-provincial consultative mechanisms and procedures on immigration matters as well as demographic, labour market, economic development policies.

Given the preferences among the other nine provinces for consultative arrangements, federal officials were not overly concerned that any of them would seek precisely the same arrangements as Quebec. Federal officials felt that given the refusal by other provinces to perform the same roles as Quebec under the Lang-Cloutier agreement of 1971 and the Andras-Bienvenue agreement of 1975, it was unlikely that they would have wanted to perform the more demanding roles which Quebec would be performing under the Cullen-Couture agreement of 1978. Their consultations with their counterparts in these other provinces indicated to them that
it was highly unlikely any of those provinces would want to perform such roles. Consequently, there was little consternation when they approached their counterparts in these provinces with the promise that if they wanted the same arrangements as Quebec in selecting independent immigrants the federal government was prepared to allow them to do so provided, of course, that like Quebec they developed both the requisite administrative capacity to participate in the recruitment and selection of immigrants, and also assume the settlement costs for immigrants which they selected. The provinces were offered two alternative modes for participating in the selection process: one was the joint selection of immigrants comparable to the system that was eventually adopted in Quebec, and the other was a provincial sponsorship system whereby a province could sponsor applicants it deemed suitable and the latter would receive additional points under the federal selection criteria for having secured such sponsorship.

Although federal officials were confident that none of the other provinces would want to perform the same roles as Quebec in the selection of independent immigrants, they had to be prepared for the possibility that one or more of the provinces may have wanted to do so. If that had happened they were prepared to try to convince their provincial counterparts that the disadvantages of performing such roles outweighed the advantageous. If any of the provinces
insisted on performing such roles, however, they would have had to comply with their request in order to avoid charges that the federal government was discriminating among the provinces. Such charges, it was felt, could have had an adverse effect on its electoral, regime-legitimacy, and system development interests. The negative effect would have been compounded by the fact that both Prime Minister Trudeau and his Minister of Immigration had indicated to the House of Commons that all provinces would be treated equally if any of them wanted to perform the same roles as Quebec in their respective responses to questions by the Progressive Conservative party's immigration spokesperson, Jake Epp, regarding what other provinces could expect if they wanted to perform key roles in immigration.36

The decision of the provincial governments in the other nine provinces not to seek to perform the same roles as Quebec in selecting immigrants, like their decisions earlier that decade not to perform the same roles as Quebec in the orientation, recruitment and selection of immigrants, was based largely on their calculations that it would not be advantageous either for their regime or non-regime interests to do so.

In the case of their regime interests, these governments did not feel that it would be advantageous either for their electoral or regime-capacity interests. In terms of their electoral interests, they were concerned that
by becoming involved in selection they would be subjecting themselves to the type of lobbying and criticism which the federal government was often subjected to regarding, among other things, decisions either to issue or not to issue visas to individuals or groups from various countries. Furthermore, they believed that performing key roles in immigration could have also been disadvantageous for their electoral interests because, unlike the situation in Quebec, there was very little, if any, support among the attentive public in their respective provinces, for them to follow Quebec's example. Various newspaper articles and editorials written at that time on this issue suggest that they were right. Such articles and editorials emphasized the dangers of balkanizing the planning and management of immigration. The prevailing view outside Quebec was that for the sake of efficiency, effectiveness, and equity, the federal government should retain full control of the selection process. That view was shared by many provincial politicians and their officials. The most direct statement to that effect was made by Manitoba's Premier Edward Schreyer two years earlier in the provincial legislature: "...matters of immigration are federal in nature.... We do not intend, even by invitation...to assume the mantle of jurisdiction for immigration. It is clearly and historically federal."

In terms of their regime-capacity interests, the other
provincial governments calculated that the financial costs of establishing and operating a full-fledged immigration service in order to become involved in the selection of immigrants outweighed any potential benefits of doing so. Another "financial consideration was the possibility that if they performed the same roles as Quebec they would have to assume financial responsibility for some settlement services." The terms and conditions of Quebec's participation in the selection process pursuant to the Cullen-Couture agreement obligated that province to assume settlement costs for indigent immigrants which it selected for their first year of residency in Canada. Federal officials had made a point of informing the various provinces that if they became involved in selection they, like Quebec, would also be obligated to assume such settlement costs. In most cases the provincial governments were not as concerned with the actual sums that might be involved in taking care of indigent immigrants as they were with the prospect that this represented the thin edge of the wedge which the federal government would use to devolve responsibility for all settlement services to the provinces in the future. Clearly, that particular provision in the Cullen-Couture agreement had the effect that the federal government hoped it would in dissuading these provinces from seeking the same roles as Quebec in the selection process. Such financial considerations were evident, though perhaps
not equally significant, among governments from the so-called 'have' and 'have not' provinces. All of these provincial governments felt that the financial resources required both to establish a provincial immigration service and supplant the federal government in providing emergency assistance to immigrants, could be devoted to other important provincial programs.  

In the case of their non-regime interests, these provinces calculated that performing the same roles as Quebec in the recruitment and selection of immigrants would not necessarily be advantageous for their social and economic development interests. Indeed, they were concerned that it might even be disadvantageous. They shared the view of the federal government and the vast majority of the attentive public in their provinces that if each provincial government were to participate in the selection of immigrants under the same terms and conditions as Quebec it would result in the balkanization of immigration policy and program and this would, in turn, cause delays in the processing of applications, confusion for applicants and their sponsors, and increased costs for the taxpayers.

Another reason related to their social and economic development objectives that these provinces chose not perform the same roles as Quebec in recruitment and selection is that they were assured that Quebec's involvement in the selection process would not adversely
affect the volume and nature of immigration destined to their respective provinces. More specifically, they were assured that Quebec would not be able to recruit and select the 'cream of the crop' among immigrants and refugees. In reassuring their provincial counterparts federal officials pointed out both that Quebec would be concentrating its immigration activities in the francophonie, and that federal officials would still be able to recruit and select quality immigrants and refugees for the rest of the provinces. Given such assurances, the other nine provinces decided to take a wait and see posture. The tacit understanding was that they would accept a certain degree of asymmetry in the alignment of roles within the field of immigration, provided that it did not adversely affect immigration to their respective provinces. If it did, then the alignment of roles between the federal government and Quebec as compared to that between the federal government and the other provinces as well as the federal immigration policy and program would have to be reexamined and possibly even modified.\(^4\)

Despite their concerns about the potential effect that Quebec's involvement in immigration could have for their social and economic development objectives, none of the other nine provincial governments criticized the federal government's decision to accede to the Lévesque government's demands. The federal government, which had been very
concerned about the possibility of a negative reaction by the other provinces at a time when the future of the federation was in doubt, was pleased with their decisions. Undoubtedly, it was also pleased by a statement made to the First Ministers' Conference on the Constitution in the fall of 1978 by Ontario's Premier, William Davis, which was supportive of the federal government's arrangements with Quebec in immigration. In that statement Premier Davis indicated that his government was not concerned about the differences in the alignment of roles between Canada and Quebec compared to that between Canada and the other provinces in various fields of public policy, including immigration, at the de facto level provided there was symmetry at the de jure level.

In considering adjustments in legislative responsibilities I think that we...have to keep in mind the great differences in size, needs, and capacity and desires which exist among the provinces and are just as profound as the cultural differences between Quebec and the other provinces. While the distribution of powers itself should be uniform in its application to each province, we should ensure that we incorporate into it techniques to provide for its flexible operation. In this regard I am thinking of the differentiated administrative arrangements worked out between the federal government and the provinces with respect of provincial involvement under the Immigration Act. Some provinces want that involvement. Some don't. So be it in this area so long as the free movement of people in Canada is maintained.43
That would continue to be the Ontario government's official position during most of the 1980s when successive Quebec governments pressed for additional roles in immigration both prior to, during, and after the Meech Lake Accord round of negotiations on constitutional reform.44 As shall be discussed in a subsequent section of this chapter, however, in the late-eighties the Ontario provincial government expressed some concern regarding the negative ramifications that Quebec's key role in the selection of business immigrants seemed to be having on the number of such immigrants destined to that province.45

Although the agreements signed by Saskatchewan and the four Atlantic provinces during the late-seventies were very similar, they were not identical. There were some differences, though by no means very significant, among them in terms of the precise aspects of the immigration planning and managing process in which these provinces could perform either a consultative role or at most a co-determinative role. The only two aspects of planning and managing immigration in which these provinces had a co-determinative role were in issuing visas to persons seeking medical treatment and in Newfoundland's case setting criteria for sponsors of immigrants. The key differences among the agreements can be summarized as follows. First, only the Saskatchewan, Newfoundland and Prince Edward Island agreements stipulated that the provinces could advise the
federal government both on the merits of an application by entrepreneurs before they would be processed, and also in identifying occupations to be designated for bonus points in light of economic prospects and development needs within their respective provinces. Second, only Saskatchewan, Newfoundland and Prince Edward Island were authorized to veto the issuance of a visa to persons seeking medical treatment. Their agreements stipulated that: "No foreign national may obtain a visa for the purpose of undergoing treatment, or receiving medical attention in the province without the prior consent of the Province." Fourth, only Newfoundland and Prince Edward Island were authorized to review offers of employment made to teachers, academics and doctors. Fourth, only Newfoundland, Prince Edward Island, and New Brunswick were authorized to participate in establishing economic and other requirements for persons assisting or sponsoring a relative. Even in this case there was a difference; whereas Newfoundland was authorized to establish separate provincial requirements, Prince Edward Island and New Brunswick were only authorized to participate through their respective joint committee in establishing federal requirements. Fifth, all five provinces, except Prince Edward Island, were authorized to perform a consultative role in prioritizing various categories of applicants. Sixth, all five provinces, except Nova Scotia, were authorized to participate through the Joint Committee
in reviewing the merits of requests from employers within their respective provinces for foreign workers.

Differences among those five agreements stemmed largely from three interrelated factors. First, there were some differences among the provinces in their views regarding which facets of the immigration process they felt that they needed to perform either a consultative or co-determinative role in order to ensure that immigration was consonant with their respective social and economic development objectives.

Second, whereas some provinces wanted to codify the areas in which they were to perform a consultative or co-determinative role, other provinces simply wanted to establish the mechanisms and procedures for consultation in their agreements. Third, some provinces were much better prepared for the negotiations than others, and they had a much better sense of what aspect of immigration they wanted to and could perform either a consultative or co-determinative role.⁴⁷

To this point in this section the objective has been to explain why five provinces signed their agreements and what accounts for some minor differences in those agreements. There is another important question which needs to be considered here: Why did Saskatchewan and the four Atlantic provinces sign such agreements at that particular time, but others did not? Their decisions were based on their respective calculations regarding the advantages and
disadvantages of signing agreements at that particular time.

The calculations of the provinces that signed agreements were essentially as follows. First, they hoped such agreements would lead to improved federal-provincial consultations on immigration and, by extension, a federal immigration program which was more sensitive to demographic, cultural, and economic conditions in their respective provinces. Second, the agreements contained no provisions which necessitated the expenditure of any substantial financial resources by the provinces to perform key operational roles in the various phases of the immigration process. At the very most they merely needed to designate one or two persons to consult with federal officials. Third, and equally important, they hoped that such agreements would result in financial gains, or at least not in any losses, in other policy areas. These governments sensed that the federal government attached considerable importance to these immigration agreements. They also sensed that there was a degree of 'linkage politics' involved. That is, they sensed that the federal government's decisions on various regional economic development initiatives might be influenced by how they responded to its efforts to conclude these immigration agreements with them. Evidently, they were right. The understanding among federal officials was that in order to secure agreements they were "to pull out all stops and call
in all outstanding favours" in the various provinces.51 Perhaps it is not merely coincidence, therefore, that the provinces which signed agreements at that particular time, were more dependent on federal transfers and subsidies than the other provinces. Furthermore, they were also the five provinces that received by far the fewest immigrants. Indeed, even collectively they did not receive as many immigrants as four of the other five provinces.52 Another factor which contributed to the decision of these provinces to sign those agreements is that they contained provisions which made it relatively easy to renegotiate or terminate them. Hence, if they found the agreements problematical, they could either renegotiate or even terminate them with a few months advance notice.

This explanation of why Saskatchewan and the four Atlantic provinces signed agreements which were more limited in scope than Quebec's in the late-seventies makes the unwillingness of the other provinces not to do so both interesting and important. In discussing why the other four provinces did not sign such agreements at that time, it must be noted at the outset that the reasons the Alberta provincial government did not sign such an agreement were different than those of the provincial governments of Ontario, British Columbia, and Manitoba. Whereas the latter three did not want to sign an agreement the former wanted to do so but did not succeed due both to indecision on its part
regarding precisely what it wanted to see included in such an agreement and its inability to constrain the federal government to accept certain provisions regarding the nature of Alberta’s involvement in planning and managing immigration destined to that province. Furthermore, it must also be noted that in Manitoba’s case it was the newly-elected Conservative government led by Premier Sterling Lyon that decided not to sign an agreement. Its precursor, the New Democratic Party government led by Premier Ed Schreyer who would eventually be appointed Governor General by the Trudeau government, had given its approval in principle to a draft agreement that was to be presented to federal officials for negotiations. The Schreyer government was willing to conclude an agreement for essentially the same reasons that the Atlantic provinces and Saskatchewan did. The Lyon government, however, decided that it did not want such an agreement for the same reasons that its counterparts in British Columbia and Ontario did not want one at that time. The fact that the Lyon government’s decision not to sign the agreement was made after its Minister of Education, Keith Cosens, announced to the press in May of 1978 that his department was preparing a draft agreement which it would submit to cabinet within a few weeks, suggests that it was somewhat divided or at least ambivalent regarding the advantages and disadvantages of signing an agreement. Evidently the final decision not to sign an
agreement was heavily influenced by concerns of the financial implications of entering into such an agreement raised by officials in the Department of Finance. The difference between the Schreyer and Lyon governments on whether to sign an agreement serves as an important reminder that it should not be assumed that either different governments or even different departments of a particular government within one province will make the same calculations, or at least come to the same conclusions, on the advantages and disadvantages of, among other things, an immigration agreement at a particular point in time.

The decisions of the Ontario, British Columbia, and Manitoba government not to sign an agreement were based on the following calculations regarding the effect that it would have for their regime and non-regime interests. In the case of their electoral interests these governments were concerned that they could be disadvantageous both for their electoral and regime-capacity interests. In terms of their electoral interests, they felt that although the immigration agreements signed by Saskatchewan and the Atlantic provinces would have minimized the electoral risks associated with Quebec's agreement, it would not have eliminated them entirely. They were concerned that regardless of the precise roles which they performed pursuant to such agreements, they would still create the impression among the public that they performed key roles in, for example,
setting immigration levels as well as in recruiting and selecting immigrants and refugees. Consequently, they would be subjected to the type of lobbying and criticism to which their federal counterparts were often subjected regarding immigration matters. Given that they received a significantly higher proportion of immigrants than the provinces that signed such agreements and also that the immigrant associations were stronger in their provinces, it was more likely that they would be subjected to such lobbying and criticism, that governments in those provinces which signed agreements.

In terms of their regime-capacity interests, they were concerned about the potential financial implications of such agreements in the future. The Ontario, British Columbia, and Manitoba governments all had some concerns that in the future the federal government would try to use those agreements as a basis for constraining them to increase provincial contributions for settlement services. The federal government had been making overtures to that effect for some time, and particularly since the Green Paper was issued in 1974.60

Another major factor that dissuaded them from signing agreements is that they calculated such agreements would not have had a significant positive effect on their social and economic development interests. They felt that suggestions by federal officials that such agreements would result in
more efficacious consultative roles in planning and managing immigration which, in turn, would result in an immigration program that was more sensitive and responsive to their social and economic development objectives were somewhat exaggerated. These provincial governments felt that the informal bilateral mechanisms for federal-provincial consultations on immigration matters which had been developing since the federal Green Paper on Immigration had been issued a few years earlier, would prove as effective as the formal process that would be established pursuant to such agreements.  

Given all of the foregoing considerations, the governments of Ontario, British Columbia and Manitoba decided to monitor the effect that the agreements signed by their counterparts in the other provinces, including Quebec, would have for, among other things, those governments' regime and non-regime interests. They did not see the federal government's offer to sign such agreements as a once only offer. Therefore, if they found that signing such agreements had significant benefits for the regime and non-regime interests of their counterparts in other provinces, they could always sign similar agreements in the future.

It must be underscored, however, that none of the foregoing is to suggest that the provincial governments in Ontario, British Columbia, and Manitoba did not want to exert some degree of influence in the federal immigration
planning and management process. Rather, they did not want to be seen to be doing so. They preferred to engage in low profile and informal exchanges at the administrative level regarding the immigration needs of their respective provinces. This is particularly true of Ontario. What Howard Edelman said of Ontario's *modus operandi* during the Indochinese refugee movement in Canada during the late-seventies and early-eighties is indicative of Ontario's approach to its involvement in immigration in general since the early seventies. In his words: "Although openly inviting informal consultation, Ontario continued to avoid any involvement in a formal consultation process on selection."\(^6\) Ontario officials have admitted in the past that: "Notwithstanding the lack of a formal role, Ontario does provide extensive informal input to the federal government and engages in informal consultations and meetings."\(^6\) The federal government found out how committed the Ontario government was to that approach when, as part of its efforts to conclude agreements with other provinces in conjunction with the Cullen-Couture agreement, it made several concerted efforts to convince the Bill Davis government to enter into an agreement comparable to that of Saskatchewan and the four Atlantic provinces. The Ontario government realized that for symbolic purposes it would have been a major coup for the federal government to sign such an agreement. However, it decided that it was not in its own
interests to be, or even give the appearance of being, involved in planning and managing immigration and in recruiting and selecting immigrants. The only phase of the immigration process in which the Ontario government wanted a visible profile was settlement. As in several other policy fields, the Ontario government was quite content to let the federal government assume a dominant planning and management role provided, of course, that it developed and implemented policies which contributed to that province's social and economic development.

To reiterate, unlike the provincial governments in the other three provinces that did not sign an immigration agreement in the late-seventies, the Alberta government did not do so both because it had not determined precisely which roles it wanted to, or could, perform in the field of immigration, and also because it could not constrain the federal government to agree to authorize it to perform some key roles in planning and managing immigration destined to that province. The limited time frame in which the federal government was attempting to negotiate and conclude such agreements did not give the Alberta government sufficient time to study options for the alignment of roles and to make definitive decisions on the alignment which it preferred.

Although it did not want to perform precisely the same roles as Quebec in the selection of immigrants, the Alberta government wanted a more substantial role in planning
immigration than what the federal government was offering and which Saskatchewan and the Atlantic provinces ultimately accepted in their bilateral agreements. Alberta wanted to perform much more efficacious determinative or at least co-determinative roles in planning the bulk of immigration flows to that province. More specifically, it wanted key co-determinative roles in, for example, establishing the volume of immigration by immigrant category that should be destined to that province, the ranking of occupational groups, and the points under the federal selection criteria that should be awarded to applicants based on their intended destination within the province of Alberta. It had calculated that performing such roles would be beneficial for its economic development interests. At that time the Lougheed government had become quite active in developing a provincial manpower plan. The Lougheed government had concluded that only by performing the aforementioned roles in planning immigration could the federal immigration program be made more consonant with that province's economic development objectives. Its reasons for seeking to perform such roles are probably best articulated in the following recommendation in the report of the Western Premiers' Task Force on Constitutional Trends:

The provincial position is that demographic and immigration policies must be co-ordinated with regional economic development, housing programs, transportation programs, and urban development and land policies. These
policies must be developed only with the full and active co-operation of the provinces...."\n
Although the federal government was willing to give provinces other than Quebec a consultative role in such matters, it was reluctant to give them the determinative or co-determinative roles that Alberta sought in decisions regarding the aforementioned matters. Its reluctance was based on the belief that if every province were allowed to perform such roles it could create complications and delays in planning and managing both immigration and the labour market on a national basis. The federal government felt that these provinces had ample opportunity to provide it with their views on the volume and nature of immigration that they wanted for their respective province via the federal-provincial consultative process that was being established pursuant to the Immigration Act for setting annual immigration levels for the country.\n
Confronted with a federal government that refused to grant it such determinative or co-determinative roles in planning immigration, combined with some indecision of its own regarding precisely what roles it wished to perform and how it could best do so, the Alberta government decided not to sign an agreement at that time. Instead, it directed its officials to assess the validity of the objections raised by the federal government to some of its proposals and prepare a formal draft agreement containing detailed provisions.
regarding the nature and scope of Alberta's role in immigration which could be used as the basis of negotiations with the federal government in the near future. As shall be discussed in the next section of this chapter, nearly three years passed before that draft agreement, which contained essentially the same alignment of roles that Alberta had sought in this particular round of negotiations in the late-seventies, would be finalized and submitted to the federal government.

In summary, during the second quinquennium of the 1970s all of the provinces engaged in negotiations or at least consultations with the federal government on a realignment of roles. During this time none of the provinces, including Alberta, wanted to perform the same roles as Quebec because they felt that doing so was not advantageous either for their regime or non-regime interests. The agreements signed by Saskatchewan and the other provinces merely provided them with limited consultative and at most some co-determinative roles in relatively minor facets of planning and managing immigration. Alberta was the only one that wanted to perform more substantial co-determinative and determinative roles in planning and managing immigration. However, it was unable to get such an agreement both because of some uncertainty on its part regarding the roles it wanted to and could perform, and also because the federal government was reluctant to devolve any significant authority for planning
and managing immigration on a national basis to any of the provinces other than Quebec. The next two major sections of this chapter reveals that such reluctance would continue to manifest itself during the first and second quinquennia of the 1980s.

Consultations, Negotiations and Agreements: 1981-1984

Unlike the second quinquennium of the 1970s when federal-provincial consultations and negotiations on bilateral agreements regarding the alignment of roles in immigration with all provinces, except Quebec, were undertaken on the initiative of the federal government, during the first quinquennium of the 1980s such consultations and negotiations were undertaken on the initiative of the provincial governments Alberta and British Columbia, neither of which had concluded agreements during the late-seventies, and to a lesser extent Saskatchewan which indicated to the Mulroney government that it was interested in renegotiating its 1978 agreement.

During that quinquennium both Alberta’s Lougheed government and British Columbia’s Bennett government informed first the Trudeau and subsequently the Mulroney government that they wanted to negotiate immigration agreements which authorized them to perform some key co-determinative and determinative roles in planning and managing immigration.\(^{72}\) The Alberta government’s request
was still based on the same calculations which had led it to enter into negotiations for such an agreement in the late-1970s, namely that performing such roles was advantageous for its economic development interests. For the British Columbia government, however, this marked a change from its decision not to conclude such an agreement in the late-seventies. Evidently that change was based on calculations that now it was advantageous to conclude an immigration agreement with Ottawa. There were three major factors that led it to reverse its decision. First, it had been able to monitor the experience of Quebec and the other provinces with their agreements. Second, in the intervening years its officials had developed some expertise in the field of immigration. Third, it felt that the advantageous of the draft agreement produced by its officials for its regime-capacity and economic development interests outweighed any disadvantages either to those or any of its other superordinate material and non-material interests. In this respect its calculations were essentially the same as those of its Alberta counterpart.

The decision of the Alberta and British Columbia governments to enter into negotiations with their federal counterpart for an agreement on immigration was based on their calculations that if the latter accepted the key provisions in their draft agreements it would be advantageous for their respective regime-capacity and
economic development objectives. In terms of their economic
development objectives, they calculated that those
provisions in the agreements giving them key roles in
planning and managing immigration would help to ensure that
immigration destined to their provinces would be consonant
with their respective economic development objectives.

Towards that end they felt that they needed to have a
greater say controlling the volume and nature of immigration
destined to their provinces. Both the Alberta and British
Columbia governments felt that the federal immigration
programme was not sufficiently responsive to the changing
labour-market needs in those provinces in light of the
economic downturn of the early-eighties. More specifically
they felt that the federal immigration programme did not
adequately take into account the needs of their respective
province for certain types of workers in key industries in
various locations within those provinces. Their views on
this particular issue were articulated in the 1981 report of
the Western and Northern Manpower Ministers' Advisory Team
on Immigration which concluded that there was "an urgent
need to develop immigration strategies which would assist
the west in meeting its manpower needs."73 For that
purpose the Advisory Team had recommended that "the federal
and provincial governments jointly develop an occupational
and area demand rating system and jointly evaluate
employers' requests for overseas recruitment."74
As well, the Alberta and British Columbia governments wanted to have a greater say in planning and managing business immigration to their respective provinces. These provinces, as well as some of the others, were becoming somewhat concerned that Quebec, by virtue of its agreement and its active role in the selection process, had an advantage in attracting business immigrants.73 As the economy took a downturn in the early 1980's all of the provinces began to focus on business immigration as a means to generate investments and create jobs in their respective provinces. The competition for such immigrants was particularly intense in Hong Kong. In fact, by 1984 the competition had become so intense that at one point Quebec's Minister of Immigration, Gérald Godin, accused the other provinces of conducting a "disgusting anti-Quebec campaign" in Hong Kong.74

The other major reason that the Alberta and British Columbia governments wanted to perform key roles in planning and managing immigration is that they felt that it would be advantageous for their regime-capacity interests. Even more important than the enhanced jurisdictional authority in the field of immigration, these governments were considering the effect that certain provisions in the agreement could have had on their finances. Both the Alberta and British Columbia governments felt that properly planned immigration could be beneficial for the provincial economy and in turn
also for their own coffers. Furthermore, they felt that financial benefits would also accrue to their finances if the federal government assumed a greater share of the responsibility for the escalating costs of providing settlement and educational services both to new immigrants and refugees and their children. This became a particularly important consideration in light of the increased influx of refugees into the country from Southeast Asia and Latin America at that time.

It was the aforementioned considerations, which led the Alberta and British Columbia governments to submit draft agreements to their federal counterparts between 1981 and 1983. Whereas Alberta submitted one in 1981 and another in 1983, British Columbia submitted one in 1983. Although there were some minor differences in the wording of certain clauses, the general thrust of those draft agreements was remarkably similar. They contained two major sets of provisions. One set was designed to give the provinces key consultative, co-determinative, or determinative roles in in planning and managing immigration destined to their provinces, and the other was designed to increase the federal government’s financial responsibility for settlement services. Those draft agreements had much more in common with those signed by Saskatchewan and the Atlantic provinces than the one signed by Quebec. More specifically, they contained essentially all of the provisions in the
agreements of the former and a few provisions regarding a provincial role in planning and managing immigration that were either the same or comparable to those contained in the latter. None of the provisions in those draft agreements provided those provinces with more authority than Quebec in planning and managing immigration.

The roles which Alberta and British Columbia sought in planning and managing immigration were generally much more limited in scope than those which Quebec could perform pursuant to the Cullen-Couture agreement of 1978. This is particularly true of the roles they sought in the recruitment and selection of independent immigrants. In the case of recruitment, none of those draft agreements contained provisions for the extensive provincial role in recruitment that were in the Cullen-Couture agreement. Similarly in the case of the selection of the majority of independent immigrants applying from abroad none of those contained provisions that would have authorized those provinces to establish their own selection criteria and exercise a veto in the selection of most independent immigrants as did the Cullen-Couture agreement. Instead, they only invoked the principle that decisions regarding selection criteria and selection would be made jointly by the federal and provincial governments based largely on their assessment of the relationship between the skills and qualities of applicants and the social and economic
development objectives and needs of the provinces and the country. The only provisions which would have given the Alberta and British Columbia governments essentially the same role as their Quebec counterpart in the selection process were those pertaining to the selection of two relatively small categories of independent immigrants, namely entrepreneurs and self-employed persons, and temporary workers whose skills were deemed necessary by the provincial government to fill a void in the provincial labour-market that could not filled by permanent residents in Canada. Even in this particular case, however, Quebec’s authority was slightly greater than what these provinces were seeking; whereas the former could exercise both a positive and a negative veto in the selection of those two categories of independent immigrants, the Alberta and British Columbia governments would have been able to exercise only a positive veto. Alberta and British Columbia’s draft agreements were also much more circumscribed in scope than Quebec’s agreement regarding the role that they could perform in designating occupations and in establishing occupation and area demand ratings. Whereas Quebec was authorized to designate occupations and establish its own ratings, the provisions in Alberta and British Columbia’s draft agreements stipulated that such ratings were to be established jointly by the federal and provincial governments according to the latter’s social and economic
development priorities.

The other significant set of provisions in those draft agreements were those regarding the federal and provincial governments' roles and responsibilities in providing settlement services. The most significant provision in this respect in the 1983 draft agreements was the one which extended federal responsibility for meeting the settlement needs of indigent immigrants from beyond the first year of residency regardless of their employment status or whether they qualified for unemployment insurance benefits, as had been the practice since the late-fifties, to up to two years after arrival or at least until the head of the household qualified for unemployment insurance benefits. This particular provision was intended to eliminate the costs which the provinces incurred as a result of the provision under the federal Immigrant Adjustment Assistance Program that indigent immigrants only qualified for such emergency financial assistance until they obtained "employment of a continuing nature." The interpretation of what constituted work of a continuing nature had been the source of ongoing federal-provincial controversies. The provinces maintained that generally immigrants who became indigent after they had found "employment of a continuous nature" but who did not work long enough to qualify for unemployment insurance were turning to the provincial welfare program for assistance for which the province, pursuant to the terms of the Canada
Assistance Plan had to assume fifty percent of the costs. As long as such immigrants were collecting benefits either under either the federal Immigrant Adjustment Assistance Program or the Unemployment Insurance Program, however, the province did not have to assume any of the costs.

This particular provision in those draft agreements was significantly different than provisions regarding the financial responsibilities of the federal and provincial governments for settlement programs contained in the agreements signed by Quebec, Saskatchewan and the Atlantic provinces in the late-seventies. None of those required the federal government to provide for the settlement needs of indigent immigrants until they qualified for unemployment insurance. Instead, those signed by Saskatchewan and the Atlantic provinces only required the federal government to assume responsibility for up to one year until they had obtained employment of a continuous nature. Quebec's agreement had the additional provision that required that the province assume such responsibility for immigrants who had been selected pursuant to its selection criteria.

In sum, the dual thrust of the draft agreements was to give the Alberta and British Columbia governments key consultative, co-determinative, and in some cases even determinative roles in planning and managing immigration destined to their provinces, and also to expand the federal government's financial responsibility for settlement
services needed by indigent immigrants.

The Trudeau government was concerned about both the provisions designed to give those provinces key role in planning and managing immigration and also those designed to modify federal and provincial financial responsibilities for settlement programs and services. Despite the fact that those draft agreements were somewhat more limited in scope than the Cullen-Couture agreement, the Trudeau government was concerned about the implications of some of the provisions therein for its ability to plan and manage both immigration and the domestic labour market. It was particularly concerned about the provinces' request for determinative or co-determinative roles in designating occupations, setting occupational and area demand ratings, and selecting temporary workers. Its officials were concerned that this constituted a serious erosion of Ottawa's ability to develop a nationally integrated labour-market strategy and training programs. They believed that in order to coordinate immigration and various policies related to the labour market policies, including training policies, efficiently and effectively it was essential that the federal government retain full control of decisions related to the aforementioned matters. If it did not, it would balkanize such planning to the point where it would be impossible to institute a coherent and integrated national strategy. Among other things, they were concerned that it
would result in federal-provincial disputes on whether it was better to modify the designated occupations or the occupational and area demand ratings in an effort to meet the labour-market needs of a particular province, or whether training programs should be established either on a national or regional basis. Evidently, such concerns stemmed from their experience with Quebec's roles in this facet of immigration. Federal officials felt that Quebec's decisions on the number and nature of workers that it selected as part of the independent immigrant movement did not always adequately take into account the availability of workers in other provinces. They feared that any involvement by other provinces would compound the difficulties of the federal government to develop and implement a nationally integrated labour market strategy.¹⁰¹

Another major concern for the Trudeau government was the provision in those draft agreements that would have lengthened the time-frames for which it would have been responsible for the settlement needs of indigent immigrants. The federal government had become increasingly concerned about the escalating costs of settlement services particularly in light of large refugee movements from southeast Asia and also those growing number of backlog cases.¹⁰² At that point in time the federal government was not favourably disposed to increasing its share of financial responsibility for any health and welfare programs,
including those related to serving indigent immigrants. Its basic objective at that time was both to find ways to make more efficient use of financial resources devoted to settlement and to increase its share of political credit for its financial contributions to such programs.\textsuperscript{83} As noted in the previous chapter, at that time Prime Minister Trudeau felt that it was necessary to halt what he perceived as the massive decentralization of the federal government's power in various fields of public policy which had been occurring since 1960, and the increased reliance by the provinces on federal funding for various social programs during that era without giving the federal government due credit for its financial contributions.\textsuperscript{84}

Rather than rejecting those provinces' demands outright, however, the federal government decided to postpone negotiations at least until two major reviews related to immigration that had been undertaken at that time were completed. This included the review of the system for determining labour market needs in the various provinces (i.e., the Canadian Occupational Projection System) and also the review of the role of various federal departments in funding settlement services programs which were not completed until 1984.\textsuperscript{85} Those reviews were necessary both to determine how responsibility for immigration settlement and citizenship services would be allocated both among various federal departments and also between the federal and
provincial governments. Various federal departments were interested in how they could deliver their respective programs more efficiently and effectively in concert with the provinces. In light of the latter objective federal officials felt that it would be best to postpone negotiations on bilateral agreements until they knew precisely what types of federal-provincial arrangements were possible and preferable on settlement matters. Towards that end they had undertaken extensive consultations with their provincial counterparts from 1981 until 1983."

Apart from those practical administrative considerations, the other reason that the Trudeau government decided to stall, rather than enter into negotiations and then reject their demands for a realignment of roles outright is that politically it was less risky to its electoral, regime-legitimacy and system-development interests to do so. The federal government wanted to avoid a situation which could have required it to explain both to the provincial governments and possibly also the parliamentarians and the public why, despite its repeated promises that all provinces would be treated equally, it was refusing to grant those provinces roles that were either comparable to or more limited in scope than those performed by Quebec. In the wake of the controversies surrounding the National Energy Program and the changes to the Crow Rate during the early 1980s, the federal government did not need
any additional irritants in western Canada. Although rejecting the province's demands for a realignment of roles in immigration would have been a relatively minor irritant compared to the aforementioned initiatives, it could have become another lightning rod for anti-Ottawa and anti-Quebec sentiments in the western Canada, especially if either of those provincial governments publicly criticized the federal government for refusing to accede to their demands. Postponing negotiations, rather than rejecting the demands of the provinces outright must have been a particularly important consideration for the Minister of Immigration at that time, Lloyd Axworthy. 87 As the only elected cabinet minister from the West in the Trudeau government, and chairperson for the Cabinet Committee on Western Affairs, he risked being criticized for not entering into agreements which the provincial governments believed would be beneficial for their provincial economies.

The federal government was not placed in the position of having to explain its reaction to the draft agreements because both the Alberta and British Columbia governments decided not to publicize either their demands or the federal government's reluctance to enter into negotiations for agreements. Their decision not to do so was based on three major considerations. First, the alignment of roles in immigration was not as a high priority issue for them as other issues that were being dealt with in the federal-
provincial arena at that time. Second, they felt that there would not be much public support for their demands within their provinces because as in the past the prevailing attitude was that immigration should be planned and managed by the federal government. Third, and closely related to the second, they felt that only by publicly depicting the situation as a case of special status for Quebec they would have not received much support. The provincial governments were loathe to do this, however, because it could have created tensions with the Quebec government. Evidently the Alberta government was particularly concerned about this because it had developed relatively good relations with Quebec in their respective efforts to enhance provincial autonomy vis-à-vis Ottawa in policy fields of key interest to each of them. At that time the Alberta government wanted to ensure that nothing exacerbated the strains in its relations with its Quebec counterpart which had developed as result of what had been portrayed as the betrayal of Premier Lévesque by Alberta and the other members of the "gang of eight" in the eleventh hour of constitutional reform negotiations that produced the Constitution Act of 1982. The other major reason that these provinces were unwilling to criticize publicly the federal government was that there was no guarantee that doing so would lead the federal government to accede to their demands. Consequently, they ran the risk of offending both Ottawa and Quebec without a
significant possibility that the federal government would agree to sign the type of agreement that they sought.

Given those considerations, the Alberta and British Columbia governments decided to continue to press the federal government privately for an immigration agreement. During their meetings elected and appointed provincial officials mentioned that the roles their governments wanted to perform in immigration were generally more circumscribed than those which had been granted to Quebec under the Cullen-Couture agreement, and reminded them of past pronouncements by Prime Minister Trudeau and successive federal immigration ministers that whatever was offered to Quebec would be made available to the other provinces on an equal basis. Such arguments had little effect on the disposition of the federal government and its officials. They countered that Quebec performed unique roles because it had unique needs in light of its demographic and socio-cultural imperatives, therefore other provinces should not base the alignment of roles in their agreements on the alignment of roles in the Cullen-Couture agreement. This response marked a departure from the policy which had been articulated publicly by the Prime Minister and successive federal ministers of immigration for nearly fifteen years. It also marked the start of a policy which would be espoused by both the Trudeau and Mulroney governments thereafter. That policy may have reflected what Donald Smiley described
as the new-found confidence of the Trudeau government as a result of its electoral victory in 1980 and its success in the Quebec referendum that "...in any direct confrontation with the assertion of national power and purpose the provincial governments would not be able to carry the support of their respective residents." 90

Given the frustrating experience in their negotiations with Alberta and British Columbia in previous years, in 1984 federal immigration officials decided to adopt a new approach in undertaking such negotiations. Rather than relying on the provinces to produce a draft agreement, they produced a so-called 'generic draft agreement' that would be presented to provinces as the basis for negotiations. 91 The decision to do so was based on the belief that without the generic agreement Alberta and British Columbia, as well as other provinces, would continue to use Quebec's agreement as the model for preparing their respective draft agreements. Federal officials were concerned that such an approach would produce draft agreements containing some of the provisions in the Quebec agreement which, from their point of view, were either problematical or entailed authorizing the provinces to perform certain roles in planning and managing immigration which the federal government was not willing to grant to any of the other provinces. The generic agreement did not include any such provisions. Instead, much like the agreements signed by
provinces other than Quebec in the late-seventies, it contained very broad principles for federal-provincial consultation and collaboration on immigration matters. Nevertheless, the ultimate authority both for planning and managing immigration, including selecting and admitting immigrants, refugees and visitors, rested with the federal government.

The generic agreement was designed to provide the same framework and parameters for all agreements negotiated in the future with the other nine provinces. While the precise nature of each agreement could vary, it could do so only within those parameters. Federal officials hoped that it would not only help to preclude demands by the various provinces for the same roles as Quebec in the selection process, but also result in agreements which were relatively symmetrical in terms of the alignment of roles between the federal government and the other nine provinces. Such symmetry among the other nine provinces was advantageous administratively because it would be much easier for federal officials to develop and remember common standardized procedures for all the agreements. Federal officials dreaded the prospect that they could have to deal with up to ten different sets of administrative procedures in immigration. It must be underscored, however, that the primary objective of the generic agreement exercise was not to achieve symmetry but to circumscribe the role of the
other nine provinces in the selection of immigrants and
refugees as well as in decisions on whether visas should be
issued to temporary workers. Symmetry was a secondary
objective. As one federal official said: "Conventional
thinking is that the federal government is always seeking
symmetry and uniformity in its arrangements with the
provinces; this is not necessarily so!" The generic
agreement was used either explicitly or implicitly as the
starting point in subsequent negotiations conducted between
1985 and 1990 with Saskatchewan, Alberta and British
Columbia which are examined below. The generic agreement
approach had mixed success; although it worked more or less
as federal officials had hoped in their negotiations with
Alberta in 1985, it was rejected by Saskatchewan in 1985,
and it did little to expedite the negotiations with British
Columbia in the late-1980s. Those negotiations are examined
in the next section of this chapter.

In 1984, just prior to the federal election held in
September of that year, British Columbia and Alberta both
indicated that they were still interested in concluding an
immigration agreement. As well, at that time Saskatchewan
indicated that it wanted to renegotiate its 1978 agreement.
The reply to all three provinces was the same; negotiations
could not be undertaken until after the federal election."

In summary, during its last term in power the Trudeau
government was unwilling to conclude agreements with its
counterparts in Alberta and British Columbia that would have authorized them to perform key determinative or co-
determinative roles in planning and managing immigration destined to their respective province, or modified the financial responsibilities of the federal and provincial governments for settlement services. Its preference was to conclude agreements which provided those provinces with limited consultative roles comparable to those found in the agreements signed by Saskatchewan and the Atlantic provinces during the late-seventies. The evidence presented in the next section of this chapter reveals that the Mulroney government shared that reluctance.

Consultations, Negotiations and Agreements: 1985-1991

Between 1986 and 1991 three major sets of negotiations for immigration agreements were undertaken; namely those with Saskatchewan, Alberta and British Columbia. Preliminary negotiations with Alberta and Saskatchewan commenced a few months after the 1984 election. As mentioned in the previous chapter, upon assuming power, the Mulroney government was intent on dealing with issues that demonstrated its commitment to cooperative federalism. Concluding immigration agreements with the various Western provinces, something which the previous government was unable to do, was identified as one such issue. Its decision do so was rooted in its electoral and regime-
legitimacy interests. In terms of its electoral interests, it wanted to consolidate its support among voters in the western provinces. Equally importantly, it wanted to enhance the legitimacy of the federal government in the eyes of residents in the western provinces who were disenchanted or angered by what they perceived as the insensitive heavy handedness of the Trudeau government. The Mulroney government was intent on demonstrating to them that Ottawa could be sensitive and responsive to the West if a government of the right partisan stripe was in power.  

Shortly after the Mulroney government’s election victory of 1984, the new federal Minister of Immigration, Flora Macdonald, advised the Western provinces that if they were still interested in such agreements her government was ready to enter negotiations. The eagerness with which she approached the provinces on this matter, after her predecessors had stalled such negotiations for nearly four years, led one analyst to comment that: "Clearly the attitude of individual ministers to the role of the provinces can be a key factor in determining the priority assigned to provincial involvement." The evidence presented in the remainder of this chapter, however, reveals that changes in ministers and governing parties does not necessarily alter the basic posture of the federal government at the bargaining table. The Mulroney government’s response to the requests of Saskatchewan,
Alberta and British Columbia for a realignment of roles in planning and managing immigration, and for modifying their respective financial responsibilities for settlement was not significantly different than that of the Trudeau government. In its negotiations with its provincial counterparts in these three western provinces the Mulroney government, like its predecessor, was trying to "...reconcile the notion that the government of Quebec plays a special role as the primary political expression of the distinctive Quebec society -- the sine qua non of all Quebec governments in modern times -- with the idea that all Canadian provinces are juridically equal." The objective in the remainder of this section is to examine the bilateral negotiations with each of those provinces in turn. As well, some attention will be devoted to the position of the other provinces on the alignment of roles during this era.


As noted above, just prior to the 1984 federal election, the Saskatchewan government, led by Premier Grant Devine, decided that it wanted to make some minor revisions to parts of its 1978 immigration agreement. In the early part of 1985 federal and Saskatchewan officials engaged in some preliminary discussions on possible revisions. At that time federal officials presented their provincial counterparts with a copy of the generic agreement which they
hoped would be used as the basis of negotiations. Several months later, after they had evaluated the generic agreement, the Saskatchewan officials indicated that they preferred to use the 1978 agreement rather than the generic agreement as the basis of their negotiations. Apparently they did not want to use the generic agreement because it did not contain provisions on the alignment of roles favoured by the Saskatchewan government especially in the financing of settlement services.97

In July 1986, Saskatchewan officials submitted a draft immigration agreement to their federal counterparts. Although there were some minor provisions designed to enhance federal-provincial consultation and coordination in planning and managing certain facets of the immigration program, and most notably the business immigration program, the key proposed changes to the 1978 agreement were contained in Appendix A of the draft agreement which dealt with the federal and provincial governments' responsibility for various settlement services. Those changes were designed to lengthen the period for which the federal government would be responsible for providing emergency financial assistance to indigent immigrants and also to increase its responsibility for settlement services such as English as a Second Language training for immigrants who were not destined to the labour market. The provincial government's initiative to reduce the number of newly
arrived indigent immigrants who turned from the federal Adjustment Assistance Program to the provincial welfare program for assistance and also to expand the scope of federal language training programs for immigrants to include those not destined to the labour market was a small part of a larger initiative to reduce the escalating costs for various provincial social services.

Saskatchewan's 1978 agreement was silent on the responsibility of the federal and provincial governments in meeting the language training needs of immigrants not destined to the labour force. In the case of indigent immigrants it echoed the general policy and practice which existed in all the provinces. The agreement stipulated that the federal government would "provide funds to indigent newly arrived immigrants for their basic needs prior to their placement in employment of a continuing nature...." and the provincial government would provide them with such assistance thereafter. The Saskatchewan government like its counterparts in Alberta and British Columbia felt that federal officials interpreted the words "employment of a continuing nature" much too narrowly. Consequently, immigrants who worked for a shorter period of time than was required to qualify for unemployment insurance benefits were directed to draw benefits from the provincial welfare program. To eliminate this situation the Saskatchewan government wanted the federal government to assume
responsibility for such immigrants indefinitely until they qualified for unemployment insurance benefits. Federal officials proposed that Canada would honour its longstanding obligation of supporting all immigrants, including bona fide refugees, for up to one year after their arrival in Canada until they had achieved economic self-sufficiency. In an effort to reach a compromise on this issue, in May 1988 the Saskatchewan government submitted a revised version of the 1986 draft agreement which contained provisions to extent coverage for indigent immigrants under the federal Adjustment Assistance Program from one to two years. As well it contained provisions that would have provided for among other things joint assessment of employer demands for foreign workers and also applications under the business immigration program. Evidently federal officials were not comfortable with any of those provisions. When federal and Saskatchewan officials met in November 1988 to discuss the revised draft agreement, they agreed that negotiations should be postponed until both the Meech Lake Accord and the Canada-Quebec agreement envisioned in that Accord were concluded. They agreed that the outcome of those two initiatives would probably have significant ramifications for both the substance and form of Saskatchewan's agreement, especially if Saskatchewan wished to entrench it in the Constitution.  

Saskatchewan officials had an additional reason for
consenting to postponing the negotiations. They wanted to wait for the recommendations of the Task Force on Multiculturalism which had been established in July of 1988 "to review all aspects of multiculturalism in Saskatchewan, including the related topics of immigration and settlement." The Task Force's final report included four major recommendations which dealt with settlement related issues:

7.1 that the government of Saskatchewan, through its policies and programs, recognize the diverse needs of immigrants as these needs evolve from settlement to multiculturalism.

7.2 that the Department of Human Resources, Labour and Employment develop a comprehensive settlement policy and program for immigrants coming to Saskatchewan.

7.3 that accessible ESL and lifeskills programs be developed to recognize the special needs of immigrant women.

7.4 that the proposed Multiculturalism Secretariat provide a cooperative leadership role regarding the progressive evolution of immigrant needs from settlement to multiculturalism.  

In 1990 the Saskatchewan government established a special bureau within the Department of Multiculturalism and Recreation to prepare a new draft agreement to revise the 1978 agreement. In preparing a draft agreement for those negotiations Saskatchewan officials were watching developments in the negotiations both in Quebec and British Columbia. The results of those negotiations were expected
to have significant implications both for Saskatchewan's demands and the federal government's response to those demands. As in 1986 and 1988, the principal objective was still to revise Appendix A of the 1978 agreement. Although it was interested in greater authority in the selection of business class immigrants similar to what Alberta had been granted under its 1986 agreement, the Saskatchewan government was still not interested in seeking the authority either to establish its own point system or to select other categories of immigrants and refugees comparable to Quebec's. Instead, its objective was to encourage the federal government to "massage its point system to make it more consonant with the province's labour market needs and objectives."¹⁰¹

In June of 1990, Saskatchewan's Minister of Culture, Multiculturalism and Recreation, Beattie Martin, indicated that his government would continue its efforts to have a greater role in planning and managing immigration destined to that province. Evidently overtures were made to federal officials to resume negotiations on an agreement, but the latter indicated that they were busy in negotiations with British Columbia and Alberta.¹⁰² By the time the Devine government lost the 1991 election to the New Democratic Party led by Roy Romanow provincial officials were still waiting for negotiations to resume. If they resume it is doubtful that the Romanow government will press for an
agreement which authorizes the province to perform the same key roles in planning and managing immigration as Quebec performs pursuant to its 1991 agreement, or even some of the roles sought by successive Alberta and British Columbia governments. Concerns over the financial cost of performing the roles performed by Quebec and those which were envisioned by its western neighbours until 1991 will likely continue to be a factor in not doing so. In the words of one official: "When negotiating agreements the province has to consider the relationship between ends and means. It is very difficult to implement agreements comparable to those envisioned by Alberta and British Columbia, and the one concluded by Quebec if the province does not have the requisite financial resources to do so." The same official added that, nevertheless, Saskatchewan wants to have a voice in immigration, hence, in negotiating a revision to the 1978 agreement the objective would be to establish "effective mechanisms for the province to engage in more strategic intervention in planning and servicing immigration and refugee flows into the province."


In the spring of 1985 federal and Alberta officials entered into negotiations for an immigration agreement on the alignment of roles both in the selection and in the settlement of immigrants destined to that province. Just
seven months later, on November 5, 1985, the Canada-Alberta immigration agreement was concluded.\textsuperscript{105} The ability of the federal and provincial governments to conclude an agreement in a relatively short period of time, had less to do with a new spirit of cooperative federalism that was ostensibly espoused by the Mulroney government, than it did with the provincial government's decision to drop the demands which it had made in previous rounds of negotiations for determinative or co-determinative roles in designating occupations, setting occupation and area demand ratings, and selecting skilled workers, as well as its demand for extending the federal government's responsibility for indigent immigrants until they qualified for unemployment insurance benefits.\textsuperscript{106} Its decision to reduce the scope of its demands was based in part on considerations that its first and most important priority at that particular time was the signing of the so-called "Western Accord" which gutted the Trudeau government's National Energy Program by, among other things, deregulating oil prices and removing various federal export taxes on natural resource exploration and exportation.\textsuperscript{107} The Alberta government did not want negotiations on immigration or any other issue to delay the signing of that energy accord. After the Accord was signed the Alberta government sensed that it would be very difficult to extract any other major concessions from the Mulroney government at that time.\textsuperscript{108}
Although it dropped many of the key demands it had made in previous rounds of negotiations, in 1985 the Alberta government decided to stand firm on its request for a key role in the selection of business class immigrants. Its decision to do so stemmed largely from changes in economic conditions which had occurred in that province since the earlier rounds of negotiations. Unlike the late-seventies and early-eighties when Alberta was experiencing an economic boom and labour shortages, by the mid-eighties it was experiencing a major economic recession and a labour surplus. Confronted with these economic conditions, Alberta's interest in immigration shifted from labour-market immigration to business immigration. It was capital rather than labour which the provincial economy lacked in 1985. Business immigration was seen as an important vehicle for attracting the much needed venture capital into that province. In part, the provincial government's decision to seek only the authority to select business class immigrants was based on the belief that by concentrating its resources on this task it could deal with applications from such immigrants more expeditiously and thereby increase the number that would ultimately be destined to Alberta. Alberta felt that it was not getting less than half of its proportionate share of such immigration. As well, by limiting its recruitment and selection activities to business class immigrants it would minimize both the
financial costs and political risks associated with selecting any additional categories of immigrants.\textsuperscript{132}

Given such imperatives, Alberta officials were instructed to conclude an immigration agreement as soon as possible which authorized the province to select entrepreneurs and self-employed persons. To speed up negotiations the Alberta officials decided to accept the federal government's generic agreement as the basis of negotiations. Evidently, their receptiveness to the generic agreement was also partly due to the fact that it contained some of the same general provisions which had been included in Alberta's own draft agreements submitted to the federal government in 1981 and 1983. The agreement which they ultimately signed in 1985 was not significantly different from the generic agreement. In fact, a comparison of the generic agreement and Alberta's 1985 agreement reveals that there was only one significant change: unlike the former which only granted the province a negative veto in the selection of entrepreneurs and self-employed immigrants, the latter granted it both a positive and a negative veto.

Until it signed the 1985 agreement, Alberta, like all other provinces, except Quebec, only had a consultative role in the selection of such immigrants. Federal officials had established a process whereby they would take into account the provinces' assessment on the viability of business proposals submitted by such applicants before proceeding
with issuance of a visa. The federal government was neither obliged to admit nor reject applicants simply because the province endorsed their applications. Under the 1985 agreement however, Alberta, like Quebec, was granted the authority both to approve or reject applications by entrepreneurs and self-employed persons. In other words, Alberta was authorized to reject applications based on the viability of the business proposals, and the federal government was obliged to issue visas to any applicants approved by Alberta provided they met the basic admission standards. According to Section V 2(c) of that agreement:

Canada will provide the Province with all applications from abroad by prospective entrepreneurs and self-employed persons interested in establishing themselves in Alberta. Canada agrees to abide by the Province's decision on the business viability of entrepreneurial proposals and further agrees to admit entrepreneurs and self-employed persons which the Province approves where no medical, criminal security, enforcement or national interest considerations preclude their admission.

Although Alberta had obtained essentially the same authority as Quebec in selecting entrepreneurs and self-employed persons, it did not obtain the same authority in the selection of other categories of immigrants. Alberta's 1985 agreement merely obliged the federal government to take into account the province's social and economic development objectives and needs in selecting independent immigrants and temporary workers. Alberta's agreement also did not confer
upon the provincial government the same authority as its Quebec counterpart had pursuant to its 1978 agreement in establishing and enforcing provincial criteria for sponsors of immigrants. Instead, Alberta’s agreement merely authorized the provincial government to participate, through the Joint Committee established under the agreement, in establishing the financial criteria for sponsors of applicants in the family, assisted relative, and refugee classes.\textsuperscript{113}

The 1985 Canada-Alberta agreement constituted a compromise between the federal government’s objective of retaining the bulk of control for the selection of most classes of immigrants and the Alberta government’s objective of participating both in the selection of entrepreneur and self-employed immigrants and, albeit to a limited extent, also in shaping federal immigration policies and programs which affected the volume and nature of immigration destined to that province.\textsuperscript{114} Alberta officials hoped that they could operationalize the broad principles for consultation and collaboration contained in the agreement to render federal immigration policies and programs more consonant with the province’s social and economic objectives.

To reiterate, one of the major reasons that Alberta’s 1985 agreement was concluded with relative ease and without protracted negotiations is that the Alberta government did not seek a major and detailed realignment of roles and
responsibilities with respect to settlement services for immigrants. Instead, it sought to establish a framework designed to facilitate negotiations on such matters after the agreement was signed. Towards that end, Section VII of the agreement stipulated that the Joint Committee would develop and implement a plan which, among other things: delineated "the responsibilities of the federal and provincial governments with respect to addressing the settlement and adaptation needs of permanent residents, including the provision of basic support to indigent permanent residents;" entailed "meaningful integrated federal and provincial planning and evaluation activities;" and simplified and rationalized "the administrative and funding arrangements" that both the federal and provincial governments had with voluntary organizations involved in settlement.\textsuperscript{115}

Approximately one year after the 1985 agreement was signed the Joint Committee produced the Integrated Settlement Services Plan. As its name suggests, the Plan integrated federal and provincial planning and evaluation activities in settlement matters, and also simplified and rationalized the funding for voluntary organizations involved in the settlement and adaptation of immigrants.\textsuperscript{116} The objective was to eliminate some of the duplication which existed prior to 1986 and to simplify the application procedure for organizations applying for funds. The three
government agencies involved in the Plan were the federal
departments of Employment and Immigration and the Secretary
of State, and the Alberta Department of Career Development
and Employment. Although the parties determined jointly
which organizations were to be funded and to what level,
each retained full control of its funds. Furthermore, when
the funds were disbursed their respective contributions were
itemized so that the recipient agencies would know the level
of funding provided by each party. Unlike its arrangements
under the 1991 Canada-Quebec agreement which authorized the
provincial government to supplant the federal government
with compensation, under the 1985 Canada-Alberta the
federal government retained a key planning and management
role. Moreover, the administrative arrangements allowed the
federal government both to exercise some control over, and
receive some political credit for, the financial resources
which it devoted to settlement programs and services.

To reiterate the Alberta government had treated the
1985 agreement as an important first step towards a more
substantial agreement in the future. Two years after
signing the agreement the Alberta Minister responsible for
immigration, Rick Orman, had already started to pave the
political path for such an agreement. Towards that end, in
December 1987 he made the following laudatory comments
regarding the Mulroney government's contribution in
concluding the 1985 agreement after several failed attempts
to do so with the Trudeau Liberal government in previous years. He indicated that prior to 1984:

...Ottawa was unwilling to recognize the principle of equality of the provinces, refusing [other provinces] similar authority as was extended to the province of Quebec. Alberta could not obtain equal treatment from the federal Liberal government. It was not until the election of the federal Conservatives in 1984 that the door was opened for the provinces to enter into a new spirit of co-operation with regard to immigration matters.¹¹⁷

Several months after he made that statement the provincial minister responsible for immigration, Rick Orman, announced that he had written his federal counterpart, Benoit Bouchard, to inform him that Alberta wanted to renegotiate the 1985 agreement as soon as the Meech Lake Accord was ratified. In making that announcement he indicated that his government wanted to renegotiate it in order to increase the provincial government's authority in recruiting and selecting business class immigrants because under the existing arrangements Quebec had an advantage over other provinces in attracting such immigrants.¹¹⁸ Those concerns and complaints were echoed in 1989 and 1990 by Alberta's new minister responsible for immigration, Norm Weiss. In that instance, however, he noted that it was not only disadvantaged vis-à-vis Quebec, but also other provinces. He complained that Alberta was disadvantaged by federal regulations which established a two-tiered system for investors program because unlike investors destined to
Saskatchewan, Manitoba, and the Atlantic provinces who needed to invest only $150,000 to get a visa, those destined to the rest of the provinces, including Alberta, had to invest at least $250,000.\textsuperscript{119}

In response to Alberta's request to revise the 1985 agreement, the federal government indicated that it could not undertake such negotiations until the Meech Lake issue was settled and negotiations with Quebec and British Columbia had been completed. Rather than pressing the federal government to commence negotiations immediately, the Alberta government decided to wait until at least the negotiations with Quebec were completed before broaching the issue again. Part of the reason it was willing to wait was that it hoped that it would be able to use provisions in that agreement as a basis for pressing the federal government with its own demands for additional authority in immigration and also for increased federal funding for settlement services. As well, the Alberta government hoped that the provisions in those agreements might generate greater support for its initiative than had been evident when its Minister responsible for Immigration announced that he had written his federal counterpart to inform him that Alberta was seeking greater authority in immigration. That announcement had generated some criticism from members of the Opposition in the Alberta legislature and newspaper columnists who expressed concerns that such an initiative
would balkanize immigration policy. One columnist wrote: "There are certain local benefits to this, but there's also a great national risk. We could end up with 11 immigration policies—one for the federal government and one for each province. A handier formula for chaos is hard to imagine." The next day both the Alberta Minister responsible for Immigration and the Attorney General felt compelled to respond to such concerns and criticisms by providing assurances that the provincial government was not intent on seeking precisely the same authority as Quebec in immigration. Those reactions by members of the Opposition and journalists confirmed what successive Alberta governments as well as their counterparts in Ottawa had suspected throughout this era; the prevailing view among the attentive public was that the federal government should retain maximum control in planning and managing immigration. The Alberta government's experience suggests that such views also applied to greater provincial involvement in immigration among journalists includes such involvement in the busifess immigrant program.

Despite those criticisms, however, the Alberta government continued to press for an agreement. In the latter part of 1991, more than seven months after the Canada-Quebec agreement was concluded, Alberta officials contacted their federal counterparts indicating that the Alberta government was still interested in an agreement. In
response to that request, federal officials asked their provincial counterparts to send them a position paper outlining the nature and scope of the bilateral immigration agreement which Alberta sought. Shortly thereafter, the Alberta government established an interdepartmental Immigration Task Force which produced a background paper on Canada-Alberta relations in immigration. That background paper served as the basis of the position paper that the Alberta government submitted to the Mulroney government in January of 1992. The Alberta government's position paper underscored that it wanted to conclude an immigration agreement that would provide it with key roles in planning and managing immigration destined to that province. Towards that end, it wanted to perform the same roles, though not necessarily by using the same arrangements, that Quebec would be performing pursuant to its 1991 agreement in selecting independent immigrants, planning and managing the business immigration program, and planning and delivering all settlement services with federal compensation for doing the same.123

The tacit understanding between the Alberta and federal governments was that full scale negotiations for an agreement would not be undertaken until the Immigration Clause in the Charlottetown Accord was developed and ratified.124 During that particular round of negotiations on constitutional reform the Alberta government concentrated
its efforts on modifying the Immigration Clause as it had appeared in the Meech Lake Accord. It did so, because it believed that only with such a constitutional amendment would it be able to constrain the federal government to accede to its demands. Accordingly, the modifications which it sought to the Immigration Clause were designed to strengthen the requirements for the federal government to negotiate and constitutionalize immigration agreements with the provinces within a reasonable time frame. As well the modifications were designed to oblige the federal government to treat all provinces equitably in negotiating and concluding bilateral agreements.\textsuperscript{125} Towards that end, the Alberta government succeeded in convincing all of the other governments to accept the inclusion of sections 95A(2) and 95A(3) in the Immigration Clause of the Charlottetown Accord which read as follows:

\begin{itemize}
\item[(2)] Where a request is made under subsection (1), the government of Canada and the government of the province that made the request shall conclude and agreement within a reasonable time.
\item[(3)] Where an agreement being negotiated pursuant to this section, the province negotiating the agreement shall, with respect to the terms and conditions of the agreement, will be accorded equality of treatment in relation to any other province with which an agreement has been concluded pursuant to this section in the context of different needs and circumstances of the provinces.\textsuperscript{126}
\end{itemize}

Although those particular provisions provided the provinces with much more clout in constraining the federal
government to treat the provinces equitably in concluding immigration agreements, it was less than would have been available to them if some of Alberta's other recommendations been accepted. This included provisions that would have obliged the federal government to conclude an agreement within a fixed period of time, and that in doing so it treated all provinces equally. Furthermore, if the federal government was unwilling to accept a province's proposals for a realignment of roles, that province would have had the choice of selecting provisions contained in any agreements signed five years prior to the commencement of the negotiations on its own agreement. As well, in such cases the onus was on the federal government to justify its decision for differential treatment.\textsuperscript{127} Evidently, those particular provisions were not included in the Immigration Clause of the Charlottetown Accord because there was considerable resistance to them from the federal government and there was not a great deal of interest and support for them among most of the other provinces. In light of such resistance by the Ottawa and lack of strong support from the other provinces, Alberta decided to settle for the amendments noted above and devote its bargaining resources to its first priority in that round of negotiations, namely Senate reform.\textsuperscript{128}

The failure of the Charlottetown Accord, which was followed by the resignation of Premier Getty and Prime
Minister Brian Mulroney several months later, diverted attention away from the negotiations to revise the 1985 Canada-Alberta bilateral immigration agreement. At the time of writing there had not been a resumption of negotiations.

**The Canada-British Columbia Negotiations: 1985-1991**

Between 1985 and 1991 British Columbia was engaged in negotiations for an immigration agreement with the federal government under each of the three Social Credit administrations headed respectively by Bill Bennett, Bill Vander Zalm, and Rita Johnston. The negotiations undertaken by each of these administrations will be discussed in turn below. In reviewing those negotiations two facts become evident. First, none of those administrations was prepared to sign an agreement which merely formalized consultative processes comparable to those signed by provinces other than Quebec in the late-seventies. As a minimum they wanted an agreement that enhanced the province’s authority in the selection process, and clarified federal and provincial roles and responsibilities for settlement services. Second, none of them was interested in completely supplanting the federal government either in managing immigration flows into that province or in planning and delivery of reception and settlement services. Rather, they wanted to exert a greater degree of influence on decisions regarding the volume and composition of immigration destined to that province, and to
constrain the federal government to assume a larger share of the financial responsibility for 'settlement-related' services. This is the essential difference between British Columbia and Quebec in terms of their preferred alignment of roles and responsibilities.

To reiterate, the Bill Bennett government in British Columbia had been seeking an immigration agreement since 1983. Its reasons for doing so were essentially the same as Alberta's, namely a desire to have greater say in the composition of immigration destined to that province and to increase the level of federal funding for settlement services. Although it wanted a greater say in immigration it did not want to copy Quebec's model of provincial involvement in immigration. This was clearly evident in 1985 when the provincial cabinet reacted negatively to a submission prepared by its Federal-Provincial Relations Office which envisioned that the province would assume key roles in various facets of immigration planning and management including immigration reception and integration along the lines that were being contemplated by Quebec at that time. The Bennett cabinet still preferred the alignment of roles envisioned by its 1983 draft agreement. After some preliminary discussions for resuming negotiations for an immigration agreement in 1985 as a result of the invitation extended to the British Columbia government by the federal Minister of Immigration, provincial officials
began preparing for a new round of negotiations. However, it was not until the 'Immigration Clause' in the Meech Lake Constitutional Accord was accepted in principle in the spring of 1987 that negotiations for such an agreement commenced in earnest. By that time Bill Bennett had been replaced by Bill Vander Zalm as Premier of British Columbia and it was left to him to pressure the federal government for an immigration agreement.

Premier Vander Zalm saw the Meech Lake Accord process as an opportune time to press for and resume negotiations on a bilateral agreement on immigration matters. The provisions in the Meech Lake Accord designed to expand and constitutionalize Quebec's authoritative roles in the field of immigration prompted him to consider the benefits of a similar agreement for his province. More specifically, Premier Vander Zalm's interest in concluding an immigration agreement was sparked by two key factors. The first was the federal government's undertaking in the Meech Lake communiqué that Quebec would be granted full control in planning and delivering settlement services in Quebec with compensation from the federal government. The British Columbia government saw this as a good opportunity to press the federal government to accede to its long standing demands for the latter to assume a greater portion of the costs for various settlement services provided to immigrants and their children in that province.
A second major factor which prompted the British Columbia government to press for an immigration agreement at that particular time was the decision of the federal government to establish the immigrants investor program in 1986. Faced with the challenge of stimulating the economy in the aftermath of the recession of the early 1980’s, the British Columbia government, like most other provincial governments, viewed the investor program and the other two components of the business immigration program, namely entrepreneur and self-employed programs, as an important tool for attracting investment capital to foster the province’s economic development. Premier Vander Zalm’s personal interest and involvement in attracting foreign investment into that province is well known. In fact, it was one such effort to attract foreign investment for the purchase of his family’s Fantasy Gardens theme park that contributed to his decision to step down as Premier and leader of the Social Credit Party.

British Columbia’s interest in the business immigrant program is evident in its decision to create the Ministry of International Business and Immigration in July 1988. A document produced by this Ministry later that year titled An International Development Strategy for British Columbia stated that as part of its economic development initiatives "the government will increase its efforts to attract business immigrants and will consider mechanisms to
facilitate an expanded role in all aspects of immigration."\textsuperscript{130}

The Government of British Columbia recognizes the important contribution made to the province by business immigrants. These individuals bring both investment capital and entrepreneurial expertise—two important factors in facilitating the creation of new jobs in British Columbia.\textsuperscript{131}

The document also noted that, given the importance of immigration for the province, the provincial government had commenced "examining the viability of taking on a stronger role in the immigration process" and that it had notified the federal government of its intention to enter into an agreement on their respective roles and responsibilities in immigration.\textsuperscript{132} These two considerations are evident in the alignment of roles and responsibilities which British Columbia sought during the negotiations on its immigration agreement between 1989 and 1990.

During the preliminary stages of the Meech Lake negotiations, British Columbia's Premier, Bill Vander Zalm, obtained a commitment from Prime Minister Mulroney that, if the Accord were ratified, his province would be the first, after Quebec, to constitutionalize an immigration agreement utilizing the process outlined in the 'immigration clause' of the Constitution Amendment, 1987.\textsuperscript{133}

There were two major reasons that Prime Minister Mulroney acceded to Premier Vander Zalm's request for negotiating and constitutionalizing an immigration
agreement. First, the federal government hoped that, as was the case in 1978, it would be able to conclude similar agreements, albeit ones that were much more limited in terms of the roles that these other provinces would assume in the immigration process, at approximately the same time that the Canada-Quebec agreement was concluded in order to minimize the semblance in the other nine provinces that Quebec was being granted special status in the field of immigration. Second, the federal government wanted to ensure that the promise for an immigration agreement would provide added insurance that Premier Vander Zalm would continue to support the Meech Lake Accord. Undoubtedly, Premier Vander Zalm's reputation and record of openly criticizing federal initiatives which were not consonant with his views of the proper operation of the federal system contributed to the federal government's decision to make that promise.  

In January 1988, shortly after the British Columbia cabinet approved a submission on the principles of an immigration agreement with Ottawa, Premier Vander Zalm wrote Prime Minister Mulroney to request that negotiations commence as soon as possible. Despite the federal government's promise that negotiations would be undertaken in the very near future, it was not until the fall of 1988 that federal and provincial officials met to establish the process for negotiating a federal-provincial agreement, and it was not until the spring of 1989 that formal negotiations
on the principles and substance of the agreement commenced. During those meetings it became clear that British Columbia was still trying to get an agreement based on the alignment of roles which had been envisioned in its 1983 draft agreement. The only significant difference was that with respect to the federal government's responsibility for settlement services the British Columbia government wanted the federal government to contribute to the costs for certain settlement related services that were not adequately covered, either directly or indirectly, by various federal-provincial cost-sharing arrangements. Echoing the demands of successive provincial governments since the mid-sixties, it wanted the federal government to broaden its financial responsibility beyond funding of emergency care services required by indigent immigrants and language training required to prepare a person for entry into the labour market, to include various other educational, social, and health services required by immigrants and their dependants. In particular it echoed the demands which various provincial governments, school boards, and non-governmental organizations had made in that province since the mid-sixties for the federal government to contribute to the mounting costs of providing special language training both for children of newly arrived immigrants and refugees from non-English speaking countries in the province's elementary and secondary schools, and also for the immigrants' spouses
and other dependants who were not destined to the labour market. The provincial government, like its predecessors, argued that if the federal government chooses to use its authority in a field of concurrent jurisdiction such as immigration in a way that escalates the costs for the British Columbia government in an area of exclusive provincial jurisdiction such as education, then the former should assume some responsibility for those costs.

During the course of those negotiations it became evident that the Mulroney government was no more favourably disposed to such an alignment than the Trudeau government had been six years earlier. Consequently, despite nearly a dozen formal negotiating sessions held between 1989 and 1991, federal and provincial officials were unable to conclude an agreement. The federal and provincial negotiators could not agree either on the broad principles or the details of the substantive provisions in the agreement. The federal government was reluctant to agree to the alignment of roles proposed by British Columbia for the same reasons that the Trudeau government had been reluctant to agree to it six years earlier, namely concern that Ottawa would lose considerable control in planning and managing immigration. In its negotiations with British Columbia, the federal government was also thinking of other provincial governments. The Mulroney government felt that the agreement it concluded with British Columbia, rather than
the one it concluded with Quebec, would likely become the
tmodel for immigration agreements with other provinces.

The federal government was also reluctant to conclude
an agreement with British Columbia that would significantly
increase its own share of responsibility for funding certain
settlement services which, in its view, fell more logically
within areas of provincial responsibility. It was concerned
that if it increased its financial responsibilities for
settlement services in British Columbia it would have to do
the same in all other provinces. A related concern was
that, in turn, this would have significant implications for
federal funding levels in Quebec because, pursuant to the
provisions in the agreement which it was negotiating with
Quebec at that time, the federal government would be obliged
to compensate the provincial government at a level
comparable to the federal government’s responsibilities for
settlement services in other provinces.

Throughout those negotiations the British Columbia
government insisted that the federal government was obliged
to grant that province the same roles as had been granted to
Quebec under its immigration agreement. It argued that
since under section 95 of the Constitution Act, 1867
immigration was a field of concurrent jurisdiction, all
provinces had equal jurisdictional authority and therefore
merited equal treatment with respect to the alignment of
roles and responsibilities in that field of public policy.
Accordingly, all provinces, including British Columbia, had the right to an agreement that was either identical to Quebec's, or one that was more limited in scope than Quebec's but tailored to meet the needs and objectives of that particular province. In making the case for their government, British Columbia's officials indicated that in their view Section 95A of the "Immigration Clause" in the Meech Lake Accord suggested that all first ministers, including the Prime Minister, had agreed that other provinces had such a right.\textsuperscript{137}

The federal representatives did not accept that argument. They argued that although Section 95 of the Constitution Act might provide equal jurisdictional authority for all provinces, it did not provide guarantees of identical arrangements with the federal government in the field of immigration. They added that section 95A of the "Immigration Clause" in the Constitutional Amendment 1987 (i.e., Meech Lake Accord) which had been agreed to by all first ministers in June 1987, only committed the Government of Canada to "...concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province."\textsuperscript{138} They asserted that this merely obliged the federal government to enter into negotiations for agreements which were comparable, but not necessarily identical, to the one signed by Quebec. They underscored
that it did not oblige the federal government either to authorize other provinces to perform any of the roles that would be performed by Quebec pursuant to its agreement or for Ottawa to assume precisely the same financial responsibilities that it would be assuming in Quebec. Federal officials suggested that Quebec was unique because it had special demographic and socio-cultural needs and imperatives. Hence, neither British Columbia nor any of the other provinces needed to perform the roles which Quebec performed pursuant to the 1978 agreement or those that which it would be performing pursuant to the immigration agreement that was being negotiated at that time and was eventually signed in 1991. In rejecting various proposals for a realignment of roles and responsibilities, federal officials also pointed to the administrative difficulties that would be encountered in implementing such arrangements. Such arguments led British Columbia officials to conclude that, as in past rounds of negotiations during that decade, the federal government intended to limit the number and scope of roles that British Columbia would be authorized to perform in various phases of the immigration process.

By the time the Meech Lake Accord had failed to be ratified in June of 1990, federal and provincial officials had made very little progress in finalizing a draft agreement which could be presented to their respective cabinets for review and final approval. The day after the
Meech Lake Accord failed, British Columbia's Premier, Bill Vander Zalm, who was reacting to comments made by Premier Bourassa and Prime Minister Mulroney on this issue, indicated that despite the failure of the Accord, his government, like Quebec's, was still committed to concluding the proposed immigration agreement. On June 25, 1990 while explaining his government's reaction to Quebec's strategy of engaging the federal government in bilateral negotiations in its efforts to expand the scope of its authority in various fields of jurisdiction, including immigration, Premier Vander Zalm noted that any progress made by Quebec could prove beneficial for British Columbia:

It should be recognized also that Quebec will begin bilateral negotiations with respect to jurisdiction and responsibility....When it comes to an agreement whereby...Quebec is able to take greater economic initiatives to benefit their particular region or province especially, we might want similar things. If, for example, Quebec decides to quietly negotiate an immigration agreement whereby they'll have greater input, this could be of benefit to us as well.

Later that day Premier Vander Zalm added that he expected the federal government to extend the same treatment to British Columbia that it was extending to Quebec in its efforts to conclude a bilateral immigration agreement. Echoing the "equality of the provinces" argument that his officials had been making to their federal counterparts during their negotiations on the immigration agreement.
regarding British Columbia’s right to an agreement comparable to Quebec’s, he made the following pronouncement:

I want to be there with them (Quebec) all the time...We’ll move parallel with them (Quebec) and watch their moves....What’s good for the goose is good for the gander.¹⁴¹

We are going to make sure that, if a deal is negotiated between Ottawa and Quebec, then we are at the same door to get the same deal.¹⁴²

Premier Vander Zalm acknowledged that given the failure of the Meech Lake Accord and the absence of the constitutional requirement for the federal government to negotiate with the provinces as envisioned in the ‘Immigration Clause’ therein, the Mulroney government would probably not honour its promise that it would negotiate an agreement with British Columbia after it concluded an agreement with Quebec.¹⁴³

The federal government was not influenced by Premier Vander Zalm’s public pronouncements for several reasons. First, those statements were made after the failure of the Meech Lake Accord. At that time the federal government was more concerned with finalizing its negotiations for a bilateral immigration agreement with Quebec than with British Columbia. Second, unlike its Quebec counterpart, the Vander Zalm government had not made a concerted effort to generate support either inside the province or among federal politicians in Ottawa for its demands for an immigration agreement that authorized it to perform key
roles in immigration and obliged the federal government to assume a greater portion of the costs for settlement services. Third, the Vander Zalm government was distracted by several problems which led to the resignation of various senior cabinet ministers as well as the Premier. After those resignations, the provincial government's attention was diverted to the leadership convention which elected Rita Johnston as leader of the Social Credit Party.

The leadership win by Rita Johnston had little impact either in the style or substance of the negotiations on the immigration agreement. During her term in office provincial officials kept in touch with their federal counterparts but there were no major formal negotiations. There were two reasons for this. First, the Johnston regime was preoccupied with preparations for the pending provincial election. Second, both federal and provincial officials were awaiting the federal government's new set of constitutional proposals which they believed would have some bearing, either directly or indirectly, both on the tone of negotiations for such agreements, its content, and its constitutional status.

The one key development in British Columbia during the time that the Johnston regime was in power, was the release of a report produced by Melvin H. Smith, entitled *The Renewal of the Federation: A British Columbia Perspective*, which was released in May, 1991, just a month after the
Canada-Quebec immigration agreement came into force. The report highlighted the benefits of intergovernmental agreements in the field of immigration, but was critical of the way that the federal government's dualist approach in its negotiations for such agreements with Quebec as opposed to other provinces, including British Columbia. In his report Melville concluded that:

The use of intergovernmental agreements can be considered a legitimate alternative to formal constitutional amendments provided two criteria are recognized and respected. First, that all parties to an agreement have at least a modicum of constitutional power to enter into the agreement in the first place; whatever agreements are offered by the federal government to one province, ought to be available to them all.\[14\]

Melville was critical of instances where federal and Quebec governments used bilateral intergovernmental agreements as a means to achieve, through intergovernmental agreement, what they were unable to achieve through constitutional amendments, namely certain arrangements in the area of social policy. He was also critical of the negative repercussions that the Canada-Quebec immigration agreement of 1991 had for other provinces:

The difficulty with this type of an agreement is the adverse impact it has on the other provinces...in Canada.

Although an immigration agreement with Quebec is said to be necessary to preserve the cultural and linguistic character of that province, this Accord seems to be more about economics.
Quebec will receive 32% of all the settlement monies available from the federal government and yet, on the basis of experience to date, it receives only about 18% of the country's immigrants.

Differential processing times for Quebec applicants, the allocation of a high proportion of independent immigrants to Quebec and the disproportionate share of federal settlement dollars to Quebec puts other provinces, such as British Columbia, at a decided disadvantage.

Given the very high percentage of immigrants to British Columbia who have English as a second language, arguably the settlement challenges facing British Columbia are just as significant as those facing Quebec. In 1990 immigration to Quebec was 33,706 compared to British Columbia with 24,978.

All provinces have to draw from the same sources of immigration, and the dollar pie from which the federal government has to fund all aspects of immigration is finite. To allow one province to take its cut, leaving the other provinces to share in the fragments that remain, is not a commendable use of intergovernmental agreements as an alternative to constitutional amendments.

It will be interesting to see the extent to which Melville's arguments will be reiterated both privately and publicly by the British Columbia government in future rounds of negotiations. Indeed, it will also be interesting to see if they will be reiterated by governments in other provinces attempting to conclude agreements with the federal government, given that the taboo of criticizing the federal government for acceding to the demands of the Quebec
government for key roles while refusing to accede to those of other provinces has been broken.

The Melville report was produced prior to the provincial election in the fall of 1991 in which the New Democratic party led by Michael Harcourt defeated the Social Credit party led by Rita Johnston. As 1991 drew to a close British Columbia remained one of the three provinces not to sign a comprehensive bilateral immigration agreement with the federal government in recent decades. It remains to be seen what the preferred alignment of roles and responsibilities of the Harcourt government will be and also what influence, if any, the content of the Canada-Quebec immigration agreement of 1991 will have for the arrangements that the Harcourt government will seek in the area of levels setting, selection, reception and integration. It also remains to be seen whether it will invoke the equality of provinces principle articulated by Melville as it attempts to convince the federal government to enter into arrangements that are either the same or at least comparable to those in the Canada-Quebec agreement. Finally, it will be interesting to see whether the Harcourt government’s Minister for Constitutional and Intergovernmental Affairs, Moe Sihota, will alter his opinion which he expressed as opposition member of the legislature during the course of Meech Lake debate that "a patchwork quilt of immigration policies" could be dangerous for Canada and therefore "a
better approach would be to preserve the status quo, to allow the immigration powers to remain at the federal level."145


Between 1980 and 1991 there were no major negotiations, other than those regarding assistance for Special Needs Refugees, between the federal governments and their counterparts in Ontario, Manitoba, or the Atlantic provinces regarding their respective roles in the various phases of the immigration process. As of 1991 none of these provinces indicated that they wanted to perform any key roles in the various phases of the immigration process comparable to those performed by their Quebec counterparts of even those that were sought by their counterparts in Alberta and British Columbia. Moreover, none of them indicated that they wanted to conclude a formal agreement to alter the financial responsibilities of the federal and provincial governments in the settlement phase of the immigration process as did their counterparts in Saskatchewan, Alberta and British Columbia. This is equally true of those that had signed agreements in the late seventies, namely the Atlantic provinces, and those that had not done so, namely Ontario and Manitoba.

For their part the Atlantic provinces were satisfied with the existing agreements and saw no need either to
revise or to terminate those agreements. The agreements still provided those provinces with a framework for federal-provincial consultation and collaboration which those provincial governments felt was advantageous both for their regime and non-regime interests. None of the governments in power believed that a realignment of roles in planning and managing immigration would necessarily result in significantly different immigration flows. Indeed, none expressed a desire to alter the immigration flows in any significant way either with or without a new agreement. Furthermore, none expressed a desire to alter the responsibilities in meeting the settlement needs of immigrants. In short, between 1980 and 1991 the provinces were relatively satisfied with the status quo in terms of the alignment of roles in the field of immigration.

For their part the Manitoba and Ontario governments in power between 1980 and 1991 were still not interested in concluding comprehensive immigration agreements. In Manitoba the provincial government of Sterling Lyon briefly contemplated entering into negotiations for such an agreement between 1980 and 1981, but ultimately for essentially the same reasons that it had decided not to enter into an immigration agreement in the late-seventies, namely concerns regarding the potentially negative effects of what it viewed as the fragmentation of planning and managing immigration in this country, along with concerns
regarding the potential for increased financial costs, and the political risks associated with involvement in immigration, it decided not to do so.\textsuperscript{146} A factor which contributed to its decision not to seek a formal agreement was that even without one Manitoba, like other provinces, could not only participate in the levels setting exercise, but it also had a key role in decisions to issue visas to students, persons seeking medical treatment, and business class immigrants. Furthermore, as in other provinces, there was also a bilateral federal-provincial committee of officials that consulted on immigration matters. The position of successive Manitoba governments during the 1980s seemed to be that since they did not wish to perform the same roles as Quebec and even without an agreement they could still perform most of the roles performed by the other provinces with agreements, there was no pressing need to negotiate and sign a formal immigration agreement. During the 1980s successive Manitoba governments decided to follow Ontario’s example and concentrate their efforts on developing immigrant settlement services in that province.\textsuperscript{147} In the summer of 1990, in the wake of the failure of the Meech Lake Accord and just prior to the provincial election held in September of that year, Manitoba Premier, Gary Filmon, indicated that his government would establish a provincial committee to hold hearings on various issues related to constitutional reform including the issue
of federal and provincial control over immigration, however he did not express any interest in seeking a formal immigration agreement with Ottawa.\textsuperscript{148} By the end of 1991 the Manitoba government had still not expressed an interest either in performing any additional key roles in the various phases of the immigration process or in concluding a comprehensive immigration agreement. Nevertheless, at the 1991 Western Premier's conference held in Nipawin, Premier Filmon supported a joint and unanimously endorsed call for a more efficacious provincial role in planning and managing immigration.\textsuperscript{149} The prevailing view among provincial officials who met to prepare the background material and strategy for that particular conference was that concerted action would be needed to constrain Ottawa to enter into the type of collaborative arrangements which they sought in various fields, including immigration. According to one official the general sentiment among all the delegations, but particularly those from Alberta and British Columbia, seemed to be: "We are not having luck individually so let's do it together."\textsuperscript{150}

The decision for such action stemmed from two major developments. The first was the frustrating experience of Alberta, British Columbia and to a lesser extent Saskatchewan to constrain the Mulroney government to enter into bilateral agreements of immigration which authorized the roles to perform key roles in planning and managing
immigration. The second major development was the signing of the Canada-Quebec agreement of 1991 which had been signed three months prior to that conference. Some key provisions in that agreement, but particularly those regarding the level of federal compensation to Quebec for settlement services which was deemed to be relatively generous heightened the Western Premiers' interest in constraining the federal government to examine the alignment of roles and responsibilities in immigration.

The importance which the Western Premiers attached to closer federal-provincial collaboration on immigration is evident in their communiqué on immigration. The communiqué noted that immigration was an area of shared jurisdiction and an important "factor in the social, cultural, demographic, and economic development of provinces." It also contained the following recommendations for making immigration policies and program more consonant with the needs of their provincial societies and economies.

- explicitly linking annual immigration levels with the availability of federal and provincial settlement services and incorporating provincial priorities for labour market and economic development;

- providing for greater provincial authority for the selection of immigrants, which is consistent with shared jurisdiction over immigration; and

- convening an annual federal-provincial federal-provincial forum to determine objective criteria for allocating federal funds for English as a Second
Language (ESL) and other settlement programs which reflect actual immigrant settlement patterns and costs across all provinces.

...A federal-provincial meeting of Ministers responsible for immigration be held to discuss immigration policy and program issues.\textsuperscript{151}

Although the communiqué did not explicitly mention the issue which prompted it, namely the equitable treatment of all provinces by the federal government in negotiating agreements and in the alignment of roles and responsibilities, the understanding was that this would be a major item of discussion when the ministers responsible for immigration met as proposed in that document.\textsuperscript{152} At the time of writing, however, such a meeting had not been held. Furthermore, neither Manitoba nor any of the other western provinces had made much progress, either jointly or separately, in constraining the Mulroney government to conclude such an agreement.

During the 1980s the various Ontario provincial governments, like their precursors in the 1970s also decided that they were not interested either in seeking key determinative or co-determinative roles in planning and managing immigration or in concluding a comprehensive immigration agreement with their federal counterparts. The desire by successive Ontario governments since 1970 to limit their visibility in immigration to performing roles in the settlement phase was still evident throughout the 1980s.
During that time, successive Ontario governments decided to minimize their visibility in planning and managing immigration by: not entering into formal immigration agreements; not participating in the national immigration levels setting exercise; not being involved in deciding whether visas should be issued to applicants destined to that province needing special medical assistance; and not to engage in major immigrant recruitment activities abroad, save for the possibility of business immigrants in certain parts of the world. 153 Evidently during the 1980s the Ontario government reviewed its 1977 decision not to sign a bilateral immigration agreement with Ottawa on at least two occasions as part of general reviews of that province's involvement in immigration. In 1982 it was reviewed by the Progressive Conservative government led by Premier Bill Davis, and in 1986 by the Liberal government led by David Peterson. 154 On both occasions the government decided that there was still no need for such an agreement. The consensus among elected and non-elected officials was that such an agreement would not necessarily produce any significant benefits for the volume and nature of immigration destined to that province. That decision was based on observations made by Ontario officials regarding the experience of Quebec and the other provinces that had signed such agreements. There was no evidence to suggest that by virtue of their agreements these provinces
benefitted more than Ontario from immigration. It was not until the late-eighties that the Ontario government began to see at least one potential benefit in having an immigration agreement comparable to Quebec's. At that time the Ontario government started to express some concern that Quebec's regulations for immigrant investors developed pursuant to its agreement were more attractive to potential investors than the federal regulations under which the other provinces had to operate. During the late-1980s the Liberal Government began considering which, if any roles, the provincial government should perform in the field of immigration. However, performing the same roles as Quebec in selecting immigrants was still not deemed to be very advantageous either for its regime or non-regime interests. According to Ontario's Minister of Citizenship and Culture:

Ontario's position with respect to its participation in the selection and admission of immigrants to Canada remains unchanged at this time; we view this as an area of federal responsibility. However, we are examining options for the future, given the significant role immigration is likely to play in Ontario's development over the next two decades.

It was not until 1991 that an Ontario government would indicate that it was interested in concluding a bilateral immigration agreement. That year, the newly elected Ontario New Democratic party government, led by Bob Rae, indicated that it was considering entering into negotiations for a bilateral immigration agreement with the federal government.
On January 15, 1991, just three weeks before the Canada-
Quebec immigration agreement was signed, the Ontario
Minister responsible for Immigration, Elaine Ziemba,
announced that the provincial government was examining the
merits of entering into a bilateral immigration agreement
with the federal government. The issues raised in her
announcement suggest that the Rae government wanted such an
immigration agreement to deal with two major issues. First, and
perhaps most importantly, to secure additional financial
compensation for the integration and settlement of
immigrants. The Ontario government felt that Ottawa's
financial compensation to Quebec for supplanting the federal
government in planning and delivering immigrant reception
and settlement services gave Quebec a disproportionate share
of such resources. Faced with the largest provincial budget
deficit in history, and the highest annual intake of
immigrants, the Rae government wanted find a way to
constrain the federal government to increase its share of
costs for settlement services in that province. This was
particularly important at a time when the federal government
seemed intent on increasing the province's financial
responsibilities in several policy fields including
settlement services for immigrants. In October 1990, just
three months before Ontario announced its intention to
negotiate an agreement, the federal Minister of Immigration,
Barbara McDougall, indicated that Ontario would have to bear
the full responsibility for educating the estimated 85,000 extra immigrants that the province would be receiving over the next four years as a result of the federal government's decision to increase the level of immigration. 139

The financial consideration that prompted the Rae government to seek an agreement are clearly evident in the announcement made by Ontario's Minister responsible for Immigration. In justifying her government's decision for such an agreement she noted that a major objective was to secure additional federal financial resources to defray the costs of reception and settlement services in that province. In making her government's case, Ziemba noted that Ontario continued to receive slightly more than 50% and that many others move to Ontario within a few years of landing in another province or territory. Consequently, up to 75% of immigrants admitted into Canada in any given year end up settling in that province. She suggested that in light of such statistics special arrangements were needed to ensure that immigrants and refugees get the support that they need to settle in Ontario. When services and benefits for refugee claimants are added, she said, Ontario shoulders an enormous social services burden.

It's a great strain on our budget, [and] a great difficulty for community based agencies who are trying to provide and meet those basic needs. ...[w]e should have some form of arrangement to get the support systems that are needed.... I don't think it's fair to go out and encourage people to come to this country
and there are not enough services in place or the dollar value is not there to provide assistance to help them to settle in Ontario.\textsuperscript{160}

The second major reason that the recent government wanted an agreement was to ensure that Ontario had a greater say in the criteria for immigrant selection. The Minister indicated that Ontario needed more control over immigration to ensure that it met its labour market needs. In making the case for such control she noted the problems which the provincial government encountered during the construction boom of the mid- to late-eighties in southern Ontario either in bringing in foreign construction workers or extending the visas of those that were already there to fill certain skilled jobs which were in short supply in the country.\textsuperscript{161}

In sum, by 1991 the Ontario provincial government was contemplating an agreement which would provide it with more efficacious means to ensure that the federal immigration program was responsive to that province's labour market needs, its absorptive capacity, as well as a clarification of federal and provincial responsibilities for funding reception and settlement services. In the words of the Ontario Minister responsible for Immigration:

\textsuperscript{162}
In this respect it was not different than the other three provinces that were seeking to conclude immigration agreements with the federal government, namely British Columbia, Alberta, and Saskatchewan.

Shortly after she made that announcement in January 1991 the Ontario Minister responsible for Immigration indicated that she was arranging a meeting with her federal counterpart to discuss the matter of a bilateral immigration agreement. She also indicated that her ministry was preparing a brief for Cabinet discussion in mid-February. At the time of writing it is not known whether a cabinet decision was taken either on seeking to conclude a bilateral immigration agreement or on the nature and scope of such an agreement. Ontario's mounting deficit and debt will likely preclude the possibility of that province negotiating an immigration agreement that would require it to establish an immigration service comparable to Quebec's in order to facilitate its implementation.163 Given such circumstances it might be contemplating an agreement comparable to the one signed by Alberta in 1985 which would contain two major sets of provisions: one authorizing the Ontario government to perform some key co-determinative roles in planning and managing immigration destined to that province; and another outlining the federal and provincial government's responsibilities for funding various settlement services.

It remains to be seen whether the election of the New
Democratic party in that province will affect that province's approach to its involvement in the field of immigration from 1971 to 1991 which might best be described as one of vigilant monitoring and indirect provincial influence of the federal immigration program, rather than direct provincial involvement in planning and managing immigration as was the case in Quebec. Furthermore, it will be interesting to see both whether it will press for a bilateral immigration agreement, and whether the new arrangements between the federal and Quebec governments will influence its demands for a realignment of roles. Will it invoke the equality of the provinces principle, and will it be able to use the political resources at its disposal to constrain the federal government to accede to its demands?

Conclusion

To reiterate, the primary objective in this chapter has been to ascertain the determinants of the alignment of roles between successive federal governments and their provincial counterparts in provinces other than Quebec from 1971 to 1991. In doing so, this chapter has entailed two major analytical tasks. First, to ascertain the preferences of the successive federal governments and their provincial counterparts regarding the alignment of roles and the factors which shaped the same. Second, where their respective preferences diverged, to ascertain which
government's preferences prevailed in the resulting alignment of roles and why. A secondary, albeit very important, objective has been to ascertain why these governments did not perform most of the key roles performed by their Quebec counterparts in various phases of the immigration process.

With respect to the primary objective in this chapter, the evidence reveals that during this era the preferences of successive federal governments regarding the alignment of roles in planning and managing immigration generally coincided with those of the majority, though by no means all, of their provincial counterparts in power during this era. All federal governments in power during this era preferred to perform the key roles in planning and managing immigration and that their provincial counterparts be limited to performing consultative roles. The only phase of the immigration process in which the federal governments welcomed, indeed even encouraged, involvement by their provincial counterparts was in funding and, to a lesser extent, planning and managing settlement services. The preferences of the federal governments were based on their belief that such an alignment of roles was highly conducive, if not essential, to efficient and effective planning and management of immigration and to some extent also the national labour market. Moreover, they calculated that such efficiency and effectiveness was advantageous for their
social and economic development interests and, ultimately both for their electoral and regime-legitimacy interests.

The provincial governments whose preferences on the alignment of roles generally coincided with those of their federal counterparts believed that the advantages of such an alignment for their regime and non-regime interests outweighed any disadvantages. More specifically, in terms of their regime interests they felt that such an alignment was particularly advantageous both for their electoral interests because it eliminated any potentially damaging criticism related to immigration issues, and even more importantly also for their regime-capacity interests because it did not require them to expend large amounts financial resources on planning and managing immigration. These particular considerations outweighed any potential advantages that they saw in terms of performing key roles in planning and managing immigration for two of their non-regime interests, namely their social and economic development interests. They were not totally convinced that performing key roles in planning and managing immigration would have necessarily resulted in immigration flows to their respective province that would have been significantly more advantageous for the social and economic development of their respective provinces than not doing so.

The provincial governments whose preferences on the alignment of roles did not coincide with those of their
federal counterparts, namely each government in Alberta and British Columbia in power since 1977 and 1983 respectively made slightly different calculations regarding the advantages and disadvantages of certain alignments of roles for their regime and non-regime interests. They calculated that performing certain key roles could be advantageous for their social and economic development interests. Moreover, they calculated that the advantages to those interests outweighed any potential disadvantages either in terms of the financial costs involved or the potential risk to their electoral interests, particularly if they utilized low profile and low-cost approaches in performing such roles. Their calculations seemed to be that if performing such roles provided immigration flows that were consonant with their social and economic development objectives it would be beneficial both for their provincial coffers and their electoral success.

Their repeated efforts to perform such roles, however, were generally rebuffed by their federal counterparts. The only notable exception was the Alberta government’s ability to constrain the federal government to authorize it to perform a key determinative role in selecting business immigrants. The federal governments were able to rebuff the efforts of their provincial counterparts because they had a greater bargaining capacity. The federal governments had both greater jurisdictional resources and, more importantly,
greater political resources. Both the federal and provincial governments believed that there was greater public support in those two provinces as well as others, including Quebec, for the federal government to perform the key roles in planning and managing immigration destined to those provinces.

With respect to the secondary objective in this chapter, the evidence indicates that none of the provincial governments in these nine provinces wanted to perform most of the key roles that were being performed by their Quebec counterparts. Even the governments in Alberta and British Columbia did not want to perform all of the roles performed by their Quebec counterparts in the orientation, recruitment, selection, and settlement of the bulk of immigrants destined to their provinces. At most, those particular governments wanted to perform roles comparable to those performed by their Quebec counterparts in the selection of some of the relatively limited categories of independent immigrants such as business immigrants, and in establishing selection criteria related to the occupational background and destination within the province of applicants. The decisions of the provincial governments in the other nine provinces not to perform most of the key roles performed their counterparts in Quebec were based on their calculations that it was not advantageous either for their regime or non-regime interests. Most of these
governments shared their federal counterparts' view that the efficient and effective planning and management of immigration and the labour market necessitated a coherent centralized approach, albeit one that was sensitive to their needs and responsive to their recommendations. Nevertheless, there were differences among them on precisely how centralized the approach should be. The efforts of some Alberta and British Columbia governments to perform several key roles in planning and managing immigration suggests that for most, if not all, of that era a consensus did not exist among provincial governments either across provinces or, at least in some cases, even within a province over time regarding either how centralized the approach should be, or the advantages and disadvantages of a particular alignment of roles for their respective regime and non-regime interests.
1. Tom Van Dusen, "'Orientation officer' idea praised," The Ottawa Citizen (May 25 1971).

2. Confidential interviews with federal and provincial officials.


5. See, for example, the brief submitted to the Special Joint Committee which examined the federal government’s 1967 paper on immigration by Manitoba’s Minister of Trade and Commerce, Sidney Spivak, in Canada, Special Joint Committee on Immigration, Minutes of Proceedings and Evidence 6 (January 31, 1967), 203; and also the brief presented to the Special Joint Committee on Immigration in 1975 by the Newfoundland government which stipulated: "It is...important that provincial and federal consultation be strengthened so that a common monitoring of the labour market will result in a policy which best serves the needs of the individual immigrant and of Newfoundland." Canada, Special Joint Committee on Immigration Policy, Minutes of Proceedings and Evidence 30 (June 4, 1975), 82.


7. See, for example, the statements to the Special Joint Committee on Immigration Policy by members of the Newfoundland and Prince Edward Island governments in Canada, Special Joint Committee on Immigration Policy, Minutes of Proceedings and Evidence 30 (June 4, 1975); and Canada, Minutes of Proceedings and Evidence 46 (June 25, 1975). See also the brief submitted to the Special Joint Committee in camera by the Quebec government. Quebec, Ministry of Immigration. "Position of the Quebec Government Pursuant to the Publication of the Federal Green Paper on Immigration Policy," (April 1975).


11. See Canada, Department of Manpower and Immigration, Immigration Policy Perspectives (Ottawa: Queen's Printer, 1974), ix; and Robert Vineberg, "Federal-Provincial Relations In Immigration," Canadian Public Administration 30:2 (Summer 1987), 308.


13. Confidential interviews with federal officials.

14. At that time the federal Minister of Immigration was also trying to convince the provinces to participate in developing a national demographic policy. However, with the notable exception of Quebec and Alberta, the provinces were not enthusiastic about participating in such an initiative because felt that other issues to which they should devote their attention and resources. See Freda Hawkins, Canada and Immigration: Public Policy and Public Concern, second edition, (Montreal: McGill-Queen's University Press, 1988), 380-382; and Idem, Critical Years In Immigration: Canada and Australia Compared (Kingston: McGill-Queen's University Press, 1989), 66-69.


16. Ibid., 268.


18. For a summary of the key recommendations in the reports of the Economic Council of Ontario titled Human Resource Development in the Province of Ontario, and Immigrant Integration see Hawkins, Canada and Immigration, 212-213.

20. Confidential interview with provincial official.

21. Confidential interviews with federal officials.

22. Confidential interviews with provincial officials.


25. At their 1976 Annual Conference, held just one month prior to the Quebec election, the premiers called for closer federal-provincial collaboration and a greater provincial role in planning and managing immigration. Premiers' Conference, Communiqué (October, 1976). See also "Trudeau for new constitution effort," Montreal Gazette (January 27, 1977), A5.

26. Confidential interviews with federal officials.

27. See "Won't Give Quebec Power Over Immigration--PM" Globe and Mail (May 19, 1977), 9.


29. An example of the reaction that the federal government was concerned about is evident in the following article which was written after Saskatchewan and Nova Scotia had signed their agreements. John Harney, "Special Status in Immigration," Canadian Forum (May, 1978), 4.


31. Confidential interviews with federal officials.

33. Confidential interviews with federal officials.


35. Confidential interviews with federal officials.


37. Confidential interviews with provincial officials.


40. According to Freda Hawkins such concerns were expressed, for example, by New Brunswick officials. See Hawkins, Critical Years In Immigration: Canada and Australia Compared, 68.

41. Confidential interviews with federal and provincial officials.

42. Confidential interviews with provincial officials.


44. Although the Ontario government's official position was the same, there was at least one instance in which an Ontario Minister criticized Quebec's role in immigration. This occurred in December 1978, ten months after the Cullen-Couture agreement was signed, and just two moths after Premier Davis made his statement to the First Ministers' Conference on the Constitution. Ontario's minister of Culture and Recreation, Reuben Baetz, was critical of how in an effort to guide the most suitable persons to its province, Quebec officials participated in screening approximately six hundred refugees from that had arrived in a freighter. See Hazel Strouts, "Baetz hits immigration rule in Quebec," Ottawa Citizen (December 4, 1978).

45. Confidential interviews with provincial officials. See also Robert McKenzie, "Quebec appeals ban on immigrant loans," Toronto Star (February 29, 1988); and Victor Malarek, "Quebec sells visas to rich Ottawa Says," Globe and Mail (March 5, 1988), A1, A4.
46. See Section 3 of Saskatchewan’s agreement, Section 5 of Newfoundland’s agreement, and Section 6 of Prince Edward Island’s agreement.

47. Confidential interviews with federal and provincial officials.

48. This consideration is clearly evident in a statement by Prince Edward Island’s Minister of Labour, George Proud, who claimed that despite the fact that his province only received a small percentage of the total immigration flow to Canada the agreement was important in that it would “provide for a more meaningful immigration program which will more closely reflect the social and economic needs of the this province.” *Canada Release* (July 14, 1978), 1. See also statements made by Prince Edward Island’s Minister of Labour, George Henderson, and officials in a presentation to the Special Joint Committee in 1975. *Canada, Joint Committee on Immigration Policy, Minutes of Proceedings and Evidence* 46 (June 25, 1975), 46:11-46:26.

Similar sentiments were expressed by spokespersons for the Saskatchewan and Nova Scotia. See “New immigration pact gives province voice,” *Saskatoon Star Phoenix* (March 1, 1978); and Mike Fleming, “Pact seen as aid to nation’s development,” *Halifax Chronicle-Herald* (February 21, 1978). See also the statement by Saskatchewan’s Premier, Allan Blakeney, to the provincial legislature that he favoured closer federal-provincial consultations that would ensure that more skilled immigrants were directed to that province, in Saskatchewan, Legislative Assembly, *Debates* (December 1, 1976): 474.

49. For a discussion of the strong impetus among the governments of the Atlantic provinces to participate in federal-provincial programs and enter into federal-provincial agreements which promised to pay some financial dividends for their respective province see Donald J. Savoie, “The Atlantic Region the Policy of Dependency,” R.D. Olling and M.W. Westmacott (eds.), *Perspectives on Canadian Federalism* (Scarborough: Prentice Hall, 1988), 296.

50. Confidential interviews with provincial officials. One policy field in which the Atlantic provinces were attempting to get federal agreement on a policy change was unemployment insurance. For a discussion of the efforts in 1978 of various Atlantic provinces to convince the federal government to make eligibility criteria for unemployment insurance regionally sensitive see James Bickerton, “Atlantic Canada: the dynamics of dependence in a federal system," in Michael Burgess (ed.), *Canadian Federalism: Past, Present and Future* (Leicester: Leicester University Press, 1990), 129.

51. Confidential interviews with federal officials.
52. Only Manitoba received approximately the same amount of immigrants equal to the combined total for those five provinces. The other four provinces, namely Ontario, Quebec, British Columbia, and Alberta all had significantly higher annual intake of immigrants. See Appendix A (Immigration to Provinces and Territories as a Percentage of Immigration to Canada, 1980-1991).


55. Confidential interviews with provincial officials.


57. Confidential interviews with provincial officials.

58. Confidential interviews with provincial officials.

59. Confidential interviews with provincial officials. For a discussion of the Ontario government's concerns regarding the potential political risks of assuming a key role in the recruitment and selection of immigrants and refugees see Hawkins, Canada and Immigration 181-182; Menchions, "Federal-Provincial Consultation in Immigration Policy in Canada," 99; and also Howard Edelman, Canada and the Indochinese Refugees (Regina: L.A. Weigl Educational Associates, 1982), 77.

60. Hawkins, Canada and Immigration, 178; 186-190.

61. Interviews with federal and provincial officials.


63. Correspondence from Ontario's Minister of Labour dated July 2, 1980, as cited by Menchions, "Federal-Provincial Consultation in Immigration in Canada," 98.

64. Confidential interviews with provincial officials.


67. Confidential interviews with federal and provincial officials.

68. For a summary overview of the Alberta initiatives in the field of manpower and its linkage to immigration between 1972 and 1976 see Menchions, "Federal-Provincial Consultation in Immigration Policy in Canada," 57-61. See also Hawkins, Critical Years In Immigration, 67-69.


70. For a discussion of the federal-provincial consultative process on immigration levels see Canada, Employment and Immigration Canada, A consultative strategy for immigration levels determination (Ottawa: Minister of Supply and Services, 1986); and Idem, Immigration levels planning: The first decade (Ottawa: Minister of Supply and Services, 1988).

71. Confidential interviews with provincial officials.

72. British Columbia submitted its draft agreement several months after it signed the Citizenship and Language Textbook Agreement, in November 1982, which had been signed by all other provinces approximately two decades earlier requiring the federal government to pick up the entire cost for books used in language training classes. See Menchions, "Federal-Provincial Consultation in Immigration Policy in Canada," 45-47; Canada-British Columbia Language Textbook Agreement, [Mimeoographed], 1982; and also Secretary of State, "Descriptive and Financial Summary of the Federal-Provincial Agreements for Citizenship and Language Instruction and Language Textbooks, 1972-1973 to 1986-1987," [Mimeoographed, 1987], 1-19.

73. Western and Northern Manpower Ministers Advisory Team on Immigration, Meeting the Challenge of Changing Circumstances Part II: A Western Perspective on Immigration (September 1981), 6. The Advisory Team was echoing the view which had been expressed four years earlier by the Western Premiers Task Force on Constitutional Trends which concluded that immigration policies had to be coordinated with, among other things, regional economic development policies. See Western Premiers Task Force on Constitutional Trends, Report of the Western Premiers Task Force on Constitutional Trends (May 1977), 42.

74. Western and Northern Manpower Ministers Advisory Team on Immigration, Meeting the Challenge of Changing Circumstances, ii.
75. Confidential interviews with provincial officials.


77. Confidential interviews with federal and provincial officials.

78. This following discussion is based on a comparison of the provisions in Alberta’s draft agreements of 1981 and 1983, and British Columbia’s draft agreement of 1983.

79. There was no such provision in Alberta’s 1981 draft agreement.


81. Confidential interviews with federal officials.

82. Its concern in this respect is clearly evident in the following levels planning document produced in 1983. See Canada, Employment and Immigration, Immigration Levels, 1984-1986, Federal Planning Considerations (April 1983), 27. For a succinct overview of the federal and provincial initiatives in developing new arrangements in settlement programs and services see Menchions, "Federal-Provincial Consultation in Immigration in Canada," 9-16; 44-54.

83. An example of the federal government’s objective to make more efficient use of its resources is evident in the letters of understanding that it concluded with various provinces for Special Assistance Refugees. In wake of the influx of the Indochinese Refugees the federal government concluded letters of understanding with several provinces to participate in assisting special assistance refugees under the following four programs: Handicapped Refugees, Tubercular Refugees, Joint Assistance, and Unaccompanied Minors. The basic objective of those letters of understanding was to facilitate bilateral consultations on how many special needs refugees would be destined to each province, and also to apportion the financial responsibility between the federal and provincial governments and any non-governmental groups that were acting as sponsors for various special needs refugees. Between 1980 and 1983 letters of understanding covering all four programs were signed both by Manitoba and Newfoundland, and letters of understanding covering only the Unaccompanied Minors Program were signed with Alberta, British Columbia, New Brunswick and Ontario. The other three provinces, namely Saskatchewan, Nova Scotia and Prince Edward Island, did not sign such letters of understanding for any of the four programs. In Quebec’s case all four programs were carried out under the terms of the Cullen-Couture agreement. See Canada,

84. See Doern and Phidd, Canadian Public Policy, 64. For a detailed account and quotations of statements made by Trudeau on this issue see David Milne, Tug of War: Ottawa and the Provinces Under Trudeau and Mulroney (Toronto: James Lorimer & Company, 1986), 15; 23; 27-28.


87. Lloyd Axworthy was Minister of Employment and Immigration from March 3, 1980 until August 11, 1983.

88. Confidential interviews with provincial officials.

89. Confidential interviews with federal and provincial officials.


91. Although Section 108(2) of the Immigration Act permits Ottawa to enter into agreements either with individual provinces or with "groups of provinces," evidently federal officials were not contemplating concluding one multilateral agreement with all of the Western provinces.

92. Confidential interview with federal official.

93. Confidential interviews with federal and provincial officials.


95. Vineberg, "Federal-Provincial Relations in Immigration, 316.

97. Confidential interviews with federal and provincial officials.

98. Confidential Interviews with federal and provincial officials.


100. Ibid., 3.

101. Confidential interview with provincial official.

102. Confidential interviews with provincial officials.

103. Ibid.

104. Ibid.

105. The agreement was signed just four days after Don Getty replaced Peter Lougheed as Alberta's premier. The change in leadership was not cited as a significant factor in the decision of either the Alberta or federal governments to sign the agreement.

106. Confidential interviews with provincial officials.


108. Confidential interviews with provincial officials.


111. Confidential interviews with provincial officials.

112. Confidential interviews with provincial officials.

113. See Sections V 2(d) and V 3(a) and V 3(b) of the 1985 Canada-Alberta agreement.
114. Confidential interviews with provincial and federal officials.

115. See Section VII of the 1985 Canada-Alberta agreement.


117. See speech by Rick Orman in Alberta, Legislative Assembly, Hansard (December 7, 1987), 2245.


120. See Ashley Geddes, "Horsman, Orman Play Down Immigration Concerns," Calgary Herald (March 30, 1988); and comments made by Mr. Chumir in the legislature. See Alberta, Legislative Assembly, Debates (March 29, 1988), 189.


123. Confidential interviews with provincial officials.

124. Confidential interviews with federal and provincial officials.

125. Confidential interviews with provincial officials.


127. Confidential interviews with provincial officials.

128. Ibid.


131. Ibid., 20.


133. Confidential interviews with federal and provincial officials.

134. For a commentary on Premier Vander Zalm's political style see Dyck, *Provincial Politics in Canada*, 509-594.

135. For a commentary on the correspondence between the federal and British Columbia governments on the settlement funding issue in 1975, see Doug Collins, "Immigration and the Schools - We're Suckers!," *Vancouver Sun* (June 26, 1976).

136. Confidential interviews with provincial officials.

137. Confidential interviews with provincial officials.

138. Emphasis added.


142. Quoted in *Maclean's* (July 9, 1990), 15.

143. Keith Baldrey, "B.C. to Push for Immigration Pact," *Vancouver Sun* (June 27, 1990), B3.


146. Confidential interviews with provincial officials.

147. Ibid.

149. Patrick Nagle, "Western premiers compiling demands," The Star Phoenix (Saskatoon, May 17, 1991), A12.

150. Confidential interviews with provincial officials.


152. Confidential interviews with provincial officials.

153. Confidential interviews with federal and provincial officials.

154. Confidential interviews with provincial officials.

155. Ibid.


157. As quoted in Hawkins, Canada and Immigration, 394.


159. Ibid.

160. Ibid.

161. Ibid.

162. Ibid.

163. Confidential interviews with provincial officials.
CHAPTER 7
CONCLUSION

Introduction

The objective in this chapter is twofold. First, to summarize the findings regarding the determinants of the asymmetrical alignment of roles between successive federal governments and their counterparts in Quebec on one hand, and the former and their counterparts in the other nine provinces on the other, within the field of immigration from 1971 to 1991. Second, to reflect on the theoretical implications of the findings of this dissertation and to proffer some generalizations on the determinants of the alignment of roles.

Determinants of the Alignment of Roles

The central objective in this study has been to ascertain the determinants of the asymmetrical alignment of roles in the field of immigration from 1971 to 1991. More specifically, the objective has been to ascertain the determinants of differences in the alignment of roles between successive federal and Quebec governments as compared to that between the former and their counterparts in the other provinces during that era. The organization of the study has also made it possible to explain the determinants of the division of roles between the federal
governments and each of their counterparts in the various provinces.

In examining the determinants of the alignment of roles a neo-institutional state-centric model of the determinants of policies developed in the intergovernmental arena was utilized which placed the analytical focus on the preferences, interests and capacities of the federal and provincial governments. That model was utilized both in Chapter 5 to examine the determinants of the alignment of roles between successive federal governments and their Quebec counterparts, and also in Chapter 6 to examine the determinants of the alignment of roles between the former and their counterparts in the other nine provinces. The findings of those two chapters regarding the determinants of the alignment of roles between successive federal governments and their counterparts in each of those provinces have been summarized in the concluding sections of those two chapters and need not be reiterated. Instead, only those findings which contribute to an explanation of the asymmetry in the alignment of roles between the federal and Quebec governments as compared to the alignment between the former and their counterparts in the other provinces are reiterated.

The evidence presented in those two chapters suggests that the asymmetrical alignment of roles was a function of two major factors. The first major factor was differences
in the preferences of successive provincial governments in Quebec and their counterparts in other provinces regarding the roles that they wanted to perform in planning and managing immigration destined to their respective provinces. Successive Quebec governments wanted to perform certain key roles in planning and managing immigration, which their counterparts in other provinces preferred not to perform.

Those differences in their preferences were based on their respective calculations regarding the effect that performing such roles would have on their regime and non-regime interests. The essential differences between them in this respect can be summarized as follows. The preferences of the Quebec governments were based on calculations that performing key roles in immigration would be advantageous for their regime and non-regime interests. More specifically, they calculated that performing such roles would contribute to each of their regime interests, namely their electoral, regime-capacity, and regime-legitimacy interests, as well as each of their non-regime interests, namely their social and economic development interests and to some extent also their system development interests. To reiterate a point made in a previous chapter, if their social and economic development interests had been the only ones which they took into account in their calculations, the Quebec governments could have adopted an alternative approach in this field of public policy which would not have
required them to devote extensive resources in performing key co-determinative and determinative roles in planning and managing immigration. Instead, they could have utilized the political resources at their disposal to constrain the federal government to plan and manage immigration in a way that was consonant with their social and economic development interests. Such an arrangement would have only required the Quebec governments to perform consultative roles. Such an alignment of roles would have been relatively easy for Quebec governments to effect, certainly much easier than the existing one, because it was the alignment which their federal counterparts preferred.

The governments in other provinces calculated that performing precisely the same roles in precisely the same fashion as their Quebec counterparts in planning and managing immigration destined to their respective provinces would not have been advantageous for their regime and non-regime interests. In terms of their regime interests, they calculated that performing such roles, would have been disadvantageous both for their electoral interests and their regime-capacity interests. They believed that performing the same roles as their Quebec counterparts could have proved costly financially and to some extent also electorally. As well, they calculated that performing such roles was unlikely to be significantly advantageous for two of their non-regime interests, namely their social and
economic development interests. Indeed, in this respect they tended to share the views of their federal counterparts that performing precisely the same roles as Quebec could have hampered Ottawa's ability to plan and manage immigration in an efficient and effective fashion on a national basis and that this, in turn, could have had some potentially negative ramifications, however small, on the social and economic development of their provinces.

The foregoing is not to suggest, however, that none of these provincial governments wanted to perform some key roles in planning and managing immigration destined to its province that were either the same or at least comparable to those performed by its Quebec counterpart. After all, the evidence presented in Chapter 6 clearly indicates that the majority of provincial governments in Alberta and British Columbia in power during that era wanted to perform a few roles that were either the same or comparable to those performed by their Quebec counterparts. However, and this is the important point here, they did not want to perform all of the roles performed by their Quebec counterparts. This is particularly in the recruitment and selection of most independent immigrants and refugees. In the selection process, for example, they wanted to perform either the same or comparable roles as their Quebec counterparts in the selection of only a few and relatively small categories of immigrants, namely business class immigrants and selected
workers that were deemed essential in filling employment vacancies in their provinces. The other important point here is that even if their federal counterparts would have acceded to the demands of the Alberta and British Columbia governments for such roles, it would have reduced, the scope of asymmetry in the case of those two particular provinces and Quebec slightly, but it would not have completely eliminated it. However, the inability of those Alberta and British Columbia governments to constrain their federal counterparts to accede to almost all of their demands to perform some of the roles that were being performed by Quebec governments did not reduce the scope of the asymmetry. The only notable exception was the ability of the Alberta government to constrain the Mulroney government in 1985 to allow it to perform essentially the same roles as Quebec in the selection of entrepreneurs and self-employed persons. Its ability to do so stemmed largely from the desire of the Mulroney government to demonstrate at the start of its first mandate that it was more predisposed to federal-provincial collaboration than its predecessor.

Although differences in the preferences of the Quebec governments and their counterparts in other provinces was a major factor in producing the asymmetrical alignment of roles, the evidence presented in this study suggests that it was not the only factor. The second, and perhaps more important, major factor was the capacity of various Quebec
governments to constrain their federal counterparts to accede to their demands to perform key roles in planning and managing immigration destined to that province.

The evidence presented in this study reveals that all of the federal governments who acceded to the demands of their Quebec counterparts for key roles in the field of immigration, especially those roles that were not performed by any of the other provinces, did so very reluctantly after relatively intense and protracted bilateral negotiations. In each of those cases, the federal governments in power at the time generally preferred all of their provincial counterparts, including those in Quebec, performed only consultative, rather than co-determinative or determinative, roles in planning and managing immigration destined to their respective provinces. Despite their preferences, however, they were unable to constrain their Quebec counterparts to limit their involvement to performing consultative roles. Although the federal governments had an advantage in terms of jurisdictional resources in this field of public policy by virtue of the federal paramountcy provision in section 95 and the exclusive federal jurisdiction provision in section 91(25), their provincial counterparts had an advantage in political resources which they had at their disposal by virtue of the public support in that province for their preferences regarding the alignment of roles. Both the Quebec governments and their federal counterparts recognized
that within that province there was considerably more public support for the alignment of roles preferred by the former than the one preferred by the latter. The majority of the Québécois community in that province shared the provincial governments' view that they needed additional authority in the field of immigration both to foster the social and economic development of that particular community and to safeguard its political strength within the federation.¹

That shared view on this issue provided successive Quebec governments with considerable political resources in the bilateral bargaining process.

Although the federal governments recognized that there was strong support in the rest of Canada for the alignment of roles which they preferred, they still felt constrained to accede to the demands of their Quebec counterparts. They calculated that acceding to at least some of the demands of their Quebec counterparts was advantageous for their own regime and non-regime interests. In terms of their regime interests this included both their electoral interests and their regime-legitimacy interests. More specifically they were concerned that in light of widespread autonomist and, to a lesser extent, sovereignist sentiments in Quebec, rejecting the demands of their provincial counterparts would have had a negative effect both on their electoral support and what might be termed their regime support in that province. In terms of their
non-regime interests, the various federal governments acceded to the demands of their Quebec counterparts primarily because they calculated that it would be advantageous for their system development interests and possibly, though to a much lesser extent, also for their own social and economic development interests in that province. In the case of their system development interests, successive federal governments calculated that acceding to at least some of the demands of their Quebec counterparts was deemed essential in appeasing autonomist and sovereignist sentiments in that province which posed a threat not only to existing federal arrangements but, ultimately, also to the political unity and territorial integrity of Canada. In terms of their social and economic development interests in that province, they calculated, or more precisely, they hoped that some involvement by the provincial government in planning and managing immigration might have resulted in immigration flows which fostered the social and economic development of Quebec.

The foregoing findings suggest that the shared view between the majority of the Québécois community and successive provincial governments regarding the advantages of active provincial involvement in planning and managing immigration provided the latter with considerable clout, in bargaining with their federal counterparts regarding the alignment of roles. Their clout stemmed from the
calculations made by successive federal governments regarding the potential effect that those shared views could have had on their regime and non-regime interests. It must be underscored, however, that although the federal governments were constrained to accede to many of the demands of their Quebec counterparts, they were not entirely impotent in the bargaining process. Although generally they were unable to reject the demands of their Quebec counterparts, in several instances they managed to limit the scope of the realignment of roles which the latter preferred. Once the federal governments decided that it would not be advantageous for their regime and non-regime interests to reject all of the demands made by their Quebec counterparts for key roles, they adopted a negotiating strategy of minimizing the scope of the realignment of roles. This entailed efforts by successive federal governments to constrain their Quebec counterparts to accept a realignment of roles that was somewhat more limited in terms of both the number and scope of roles which they could perform in planning and managing immigration destined to that province than what the latter preferred or requested. Although it is a moot point, generally that strategy seems to have been relatively successful, though not equally so during each round of negotiations.

The importance of the bargaining capacity of the Quebec governments in altering the alignment of roles between
themselves and their federal counterparts cannot be underestimated. If those Quebec governments had not possessed the capacity to restrain their federal counterparts to accede to their demands, it is highly unlikely that there would have been any significant asymmetry among the provinces in the alignment of key roles in planning and managing immigration. The reason for this is that, to reiterate, the preference of successive federal governments during this entire era was that they should retain full control in planning and managing immigration destined to the various provinces without any significant involvement, other than at a consultative level, by their counterparts in all provinces, including Quebec.

In summary, the findings indicate that the asymmetrical alignment of roles was largely a function of two major factors. First, differences in the preferences of successive Quebec governments and their counterparts in other provinces regarding the alignment of roles which, in turn, were based on their calculations regarding the advantages and disadvantages that performing certain roles would have for their superordinate interests. Second, the capacity of some Quebec governments to constrain their federal counterparts to authorize them to perform key roles in planning and managing immigration destined to that province. In an effort to develop sound generalizations on the determinants of asymmetry in the alignment of roles
between the federal and Quebec governments on one hand and
the former and the counterparts on the other, further
research is needed of other policy fields in which such
asymmetry exists. Most notably this includes, for example,
regional development, pensions, family allowances, external
relations, tax collection, policing, student loans, and in
the near future it could also entail labour-market training.

In undertaking such studies the findings of this
dissertation serve as a caution against several possible
assumptions. First, that asymmetry is a function of
differences in the socio-cultural bases of the various
provinces. Quebec has had a distinct socio-cultural basis
since Confederation, yet the asymmetry of recent decades did
not manifest itself throughout that era. Second, it should
not be assumed that asymmetry is a function of differences
in the wealth of the provinces. Provinces that did not
perform key roles, and were not interested in doing so
included both those that were relatively affluent and those
that were not. Third, it should not be assumed that
asymmetry is simply a function of differences in the
objective effects of federal policies on the society or
economy of each province. The effect of federal
immigration policies on the society and economy of Quebec
did not change significantly in the pre- and post-1971 eras;
what changed was the provincial governments' view on how
best to deal with those effects.
The Theoretical Implications of the Findings

In addition to the insights which the findings of this study provide regarding the determinants of the asymmetrical alignment of roles between the federal and provincial governments in the field of immigration, they also provide some empirical evidence which can be applied in evaluating a key proposition in the so-called province-building and competitive state-building theories which was highlighted at the outset. The findings help substantiate recent criticisms by various analysts of the proposition embodied in those theories regarding the incessant competition between the federal and provincial governments to appropriate and exercise the jurisdictional authority to perform key planning and management roles in various policy fields.²

The evidence presented in this study reveals that in the field of immigration, not all provincial governments competed with their federal counterparts to appropriate and exercise jurisdictional authority for planning and managing immigration. Furthermore, insofar as some of the provincial governments were interested in doing so, there were considerable differences among them in terms of the scope of the jurisdictional authority which they sought to appropriate or exercise as well as the precise nature and scope of the planning and management roles which they wanted to perform. Indeed, the evidence presented in this study
indicates that such differences existed not only across provinces, but also within the same province over time.

Similarly, the evidence presented in this study also reveals that, although the federal governments generally wanted to retain extensive control of planning and managing immigration, there were certain phases of the immigration process in which they welcomed and in some cases even encouraged provincial participation. This is particularly true of the settlement phase where they wanted the provinces to perform key roles in planning, managing, and funding various settlement services. To some, albeit admittedly a much lesser, extent it is also true of the selection phase where they encouraged the provinces to perform a role in screening applications by certain categories of immigrants (i.e., business immigrants) and visitors (i.e., foreign students and persons seeking medical treatment), as well as in the levels setting phase where they encouraged the provinces to perform a consultative role in setting annual immigration levels. The fact that these were relatively limited roles in the case of the selection and levels setting phases, and somewhat removed from the actual planning and managing of immigration flows in the case of the settlement phase, does not negate the fact that the federal governments were willing to accept some provincial involvement in this policy field. The willingness of federal governments to accept and encourage provincial
participation in certain phases of the immigration process more than in others, suggests that in developing sound generalizations on the preferences of federal and provincial governments regarding the alignment of roles in various policy fields, it is necessary to explore all facets of a particular policy field, and not assume that what is true for one facet is equally true for all others.

In sum, the findings of this study regarding the determinants of the alignment of roles between the federal and provincial governments in the various phases of the immigration process from 1971 to 1991, together with the findings of comparable studies in other policy fields, suggest that the proposition in the province-building and competitive state-building theories regarding competition between the federal and provincial governments to appropriate and exercise jurisdictional authority for planning and managing various policy fields needs to be refined.¹ For that purpose studies on the nature and determinants of the alignment of roles between the federal and provincial governments in other policy fields are essential. Here it remains to reflect on the contribution that this study makes towards that effort.

To reiterate, although the central objective in this study has been on the determinants of the asymmetrical alignment of roles, its organization and content has provided the opportunity to examine the determinants of the
alignment of roles between the two orders of government. Hence, it is also possible to reflect on the following question: What generalizations can be made about the determinants of the alignment of roles between the federal and provincial governments based on this case study? Above all else, this study demonstrates that the key determinants of the alignment of roles are the preferences and capacities of the federal and provincial governments, and the factors which shape the same. It also demonstrates that the determinants of the preferences of the federal and provincial governments regarding the alignment of roles are a function of their respective calculations on the advantages and disadvantages that various policy options will have for their superordinate regime and non-regime interests given the programmatic resources at their disposal and their assessment of various forces in their operating environment.

The evidence presented in this study also underscores the importance of not assuming that in making such calculations governments are motivated only, or even primarily, by their regime interests. Instead, it suggests that while the various regime interests (i.e., electoral, regime capacity, regime legitimacy) are undeniably important, so too are their non-regime interests (i.e., social development, economic development, and system development). Although it does not prove conclusively that
they are not motivated primarily by their regime interests, it suggests that we should be cautious in postulating that they are. The reason for this is that there is a complex and inextricable relationship between regime and non-regime interests in the governments' calculations of the advantages and disadvantages of various policy options. Therefore, it should not be postulated a-priori that the former, rather than the latter, are given paramount importance. Unfortunately, given the inextricable relationship between them, it may be very difficult if not impossible to ascertain the precise importance or ranking of each interest. About all that can be said based on the findings of this study is that the prominence or importance given to each category of interests, or any particular interest within each category, in their calculations can vary over time. An important analytical task, therefore, is to explore and develop generalizations on what accounts for such variation.

In a similar vein, the evidence presented in this study suggests that in examining the determinants of the alignment of roles, it should not be postulated that the governments' preferences in any given jurisdiction will be constant over time. They can vary either among different governments, or even the same government, in a given jurisdiction. The evidence presented in this study suggests that preferences change due to changes in the results of their respective
calculations regarding the advantages and disadvantages that various policy options are likely to have on any one or more of their superordinate interests given the programmatic resources at their disposal and various forces in their operating environment.

Regarding the importance of the programmatic resources at their disposal, the findings of this study suggest that it should not be assumed that there is a direct relationship between volume of programmatic resources and preferences on whether or not to perform certain planning and management roles. Although it is true that the three provinces most interested in performing key roles in the field of immigration, namely Quebec, Alberta and British Columbia are among the relatively more affluent, it is equally true that the province with equal if not greater programmatic resources, namely Ontario, was among the least interested in performing key roles in certain phases of the field of immigration. Differences between Ontario and the other provinces on performing key roles in the field of immigration suggest that the preferences of provincial governments are likely to be shaped as much, if not more, by their perception of how well their regime and non-regime interests are served by a particular alignment than by the programmatic resources which they have at their disposal.

This study also underscores the crucial importance of the bargaining capacities of the federal and provincial
governments as key determinants of the alignment of roles, particularly when the preferences of the federal and provincial governments do not coincide. Moreover, it underscores that political resources are very important elements of each government's bargaining capacity. It also suggests that the most important determinant of each government's political resources is the degree of public support for its policy preference. Moreover, in the case of the provincial governments, it suggests that their bargaining capacity will be a function of two factors. First, the importance that their federal counterparts attach to their own electoral support in a particular province. Second, the potential effect that rejecting the demands of a provincial government poses for a federal government's regime legitimacy and system development interests. This was evident in Quebec where the bargaining capacity of the provincial governments was augmented by these very factors.

None of the foregoing, however, is to suggest that jurisdictional resources are unimportant elements of the bargaining capacity of governments. The evidence presented in this study indicates that the jurisdictional authority which both orders of government had in the field of immigration provided each of them with important leverage in the bargaining process. Mutual recognition of their respective jurisdictional resources encouraged both orders of government to engage in consultations and negotiations in
an attempt to reach an agreement on the alignment of roles. Even when they disagreed either on their respective jurisdictional authority in the field of immigration or on the alignment of roles, the governments involved were reluctant to refer the issue to the courts, and none did. The reason for this was a combination of a shared norm that such disputes should be settled within the federal-provincial arena rather than the judicial arena, as well as concerns on the part of the governments involved that judicial decisions might not produce the desired results in terms of the alignment of roles and could even prove to be disadvantageous for any one or more of their superordinate interests.

The findings of this study also indicate that the bargaining capacities of the federal and provincial governments are likely to be variable over time. Such variation is a function of the extent to which each of the aforementioned determinants of a government’s bargaining capacity exists at a particular historical juncture. Such variation is a reminder that the timing of a government’s efforts to alter the alignment of roles is an important determinant of the outcome. Finally, the findings of this study suggest that an important determinant of a government’s ability to achieve its preferred alignment of roles is not merely the amount of its bargaining capacity, but also the amount that it chooses to utilize when
bargaining on a particular issue. Such choices, like their preferences on the alignment of roles, are based on complex calculations of the advantages and disadvantages that utilizing their bargaining capacity on a particular issue will have on their regime and non-regime interests.

All of the foregoing generalizations regarding the determinants of the alignment of roles between the federal and provincial governments are based on the findings of a single case study. The extent to which they apply to other policy fields requires comparable empirical studies, and preferably ones which employ a similar analytical framework. Such studies are essential in producing sound generalizations and possibly a theory on the determinants of the alignment of roles between the federal and provincial governments within the Canadian federal system. The theoretical value of such studies would be increased immensely by similar studies of the alignment of roles between the senior orders of government in other federal systems and perhaps even some decentralized unitary systems. Studying such asymmetries will contribute both to a better understanding of existing arrangements in political systems, and also to future decisions regarding the alignment of roles between various governments within a given political system.
ENDNOTES


3. There are at least two notable examples of federal-provincial relations during the seventies and eighties which suggest that there is a need to refine those propositions. In the field of agriculture Grace Skogstad found that, with the exception of the Parti Québécois in the province of Quebec, provincial governments were generally reluctant to compete with the federal government. See Grace Skogstad, *The Politics of Agricultural Policy-Making* (Toronto: University of Toronto Press, 1987), 160-163. Similarly, in the field of fisheries Paul Pross and Susan McCorquodale found that Newfoundland was much more willing than Nova Scotia to compete with the federal government. See Paul Pross and Susan McCorquodale, *Economic Resurgence and the Constitutional Agenda: The Case of the East Coast Fisheries* (Kingston: Institute of Intergovernmental Relations, 1987), 120-123.

### APPENDIX A

**IMMIGRATION TO PROVINCES & TERRITORIES AS A PERCENTAGE OF TOTAL IMMIGRATION TO CANADA 1980-1991**

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>% OF IMMIGRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ontario</td>
<td>50.00</td>
</tr>
<tr>
<td>Quebec</td>
<td>18.20</td>
</tr>
<tr>
<td>British Columbia</td>
<td>14.45</td>
</tr>
<tr>
<td>Alberta</td>
<td>10.20</td>
</tr>
<tr>
<td>Manitoba</td>
<td>3.60</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>1.60</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>0.90</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>0.50</td>
</tr>
<tr>
<td>Newfoundland</td>
<td>0.30</td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>0.10</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>0.06</td>
</tr>
<tr>
<td>Yukon Territories</td>
<td>0.05</td>
</tr>
</tbody>
</table>

*Source: Canada Employment and Immigration Commission.*
APPENDIX B

IMMIGRATION TO QUEBEC AS A PERCENTAGE OF TOTAL IMMIGRATION TO CANADA
1962-1992

<table>
<thead>
<tr>
<th>YEAR</th>
<th>% OF IMMIGRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>25.7</td>
</tr>
<tr>
<td>1963</td>
<td>25.0</td>
</tr>
<tr>
<td>1964</td>
<td>23.0</td>
</tr>
<tr>
<td>1965</td>
<td>20.7</td>
</tr>
<tr>
<td>1966</td>
<td>20.1</td>
</tr>
<tr>
<td>1967</td>
<td>20.5</td>
</tr>
<tr>
<td>1968</td>
<td>19.3</td>
</tr>
<tr>
<td>1969</td>
<td>17.5</td>
</tr>
<tr>
<td>1970</td>
<td>15.7</td>
</tr>
<tr>
<td>1971</td>
<td>15.8</td>
</tr>
<tr>
<td>1972</td>
<td>15.2</td>
</tr>
<tr>
<td>1973</td>
<td>14.6</td>
</tr>
<tr>
<td>1974</td>
<td>15.3</td>
</tr>
<tr>
<td>1975</td>
<td>14.9</td>
</tr>
<tr>
<td>1976</td>
<td>19.6</td>
</tr>
<tr>
<td>1977</td>
<td>16.7</td>
</tr>
<tr>
<td>1978</td>
<td>16.1</td>
</tr>
<tr>
<td>1979</td>
<td>17.4</td>
</tr>
<tr>
<td>1980</td>
<td>15.7</td>
</tr>
<tr>
<td>1981</td>
<td>16.4</td>
</tr>
<tr>
<td>1982</td>
<td>17.6</td>
</tr>
<tr>
<td>1983</td>
<td>18.4</td>
</tr>
<tr>
<td>1984</td>
<td>16.6</td>
</tr>
<tr>
<td>1985</td>
<td>17.6</td>
</tr>
<tr>
<td>1986</td>
<td>19.6</td>
</tr>
<tr>
<td>1987</td>
<td>17.6</td>
</tr>
<tr>
<td>1988</td>
<td>15.9</td>
</tr>
<tr>
<td>1989</td>
<td>17.8</td>
</tr>
<tr>
<td>1990</td>
<td>19.0</td>
</tr>
<tr>
<td>1991</td>
<td>22.4</td>
</tr>
<tr>
<td>1992</td>
<td>19.2</td>
</tr>
</tbody>
</table>

Source: Canada Employment and Immigration Commission, and Quebec Ministry of Immigration and Cultural Communities.
APPENDIX C

RÉPARTITION DES IMMIGRANTS ADMIS AU QUÉBEC SELON LA CATÉGORIE, 1980-1988

16.43%

réfugiée

35.61%

famille

47.96%

Indépendants


14.02%

réfugiée

30.11%

famille

55.87%

Indépendants

Source:
DER/MCCJ, 1990
APPENDIX D

CONNAISSANCE LINGUISTIQUE DES IMMIGRANTS
ADMIS AU QUEBEC, 1968-1989*

SOURCE:
DER/HCC1
AVRIL 1990
BIBLIOGRAPHY

BOOKS


Harvey, Fernand. La question de l’immigration au Québec. (Texte présenté au Conseil de langue français) [Mimeographed, 1985].


ARTICLES


________. "The Other Crisis of Canadian Federalism. Canadian Public Administration 22 (Summer 1979): 175-195.


UNPUBLISHED WORKS

Doern, Bruce G. "Canadian Policy Studies as Art, Craft and Science." Speaking notes for a panel discussion at Canadian Political Science Association Conference in Ottawa (June 1993).


GOVERNMENT DOCUMENTS


Meeting the Challenge of Changing Circumstances: A Western Perspective on Immigration. [ Mimeographed, 1981].


DOCUMENTS BY SPECIAL AGENCIES


DOCUMENTS BY POLITICAL PARTIES


PERIODICALS

Alberta Report
Calgary Herald
Edmonton Journal
Edmonton Sun
Globe and Mail
Halifax Chronicle-Herald
Kitchener-Waterloo Record
Le Soleil
L'Action Nationale
L'Actualité
Le Devoir
Le Jour
London Free Press
Mclean's
Montreal Star
Montreal Gazette
Ottawa Citizen
Saskatoon Star-Phoenix
Sault Star
Toronto Star
Toronto Sun
Toronto Telegraph
Vancouver Sun
Winnipeg Free Press
Winnipeg Tribune