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Miscue on Meech

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In the editorial *The 7"50 Formula* (May 13), *The Globe and Mail* claims that the approval of Meech Lake resolutions by seven provinces with 50 per cent of the population would validate almost all of its provisions. According to the editorial, only the amending formula changes could not be proclaimed into force.

This claim is mistaken in its particulars and on the whole. Part V of the Constitution Act, 1982, requires unanimity for almost every one of the individual clauses of Meech Lake. Here's why:

The "distinct society" clause is in relation to "the use of the English or the French language" and thus requires unanimous approval according to the Constitution Act, 1982, s. 41 (c);

The "Supreme Court" clause contains provisions on the number, qualifications and selection of judges. It is in relation to the "composition of the Supreme Court of Canada," s. 41 (d);

The "amending formula" clause (as *The Globe* concedes) requires unanimity under s. 41 (e);

The "immigration" clause also has an amendment to the amending formula in Part V; s. 41 (e);

The "Senate appointment" clause is expressly tied to the amending formula clause, and so also requires unanimity. So much for the particular clauses. *The Globe* also assumes that the 7"50 formula can validate parts of a larger resolution which in some respects requires unanimity. But it cannot be supposed that any legislature which passes a wide-ranging resolution would approve the coming into force of only a part of it. The "missing parts" may have been crucial to its decision to approve the package.

The Meech Lake accord was certainly understood by Quebec as a "package deal." Its negotiating partners were told they must satisfy "five conditions" or there would be no agreement. The federal Government has repeatedly characterized the accord as a "seamless web." Quebec's Legislature has approved a single resolution in support of it. Unless Parliament and all 10 provinces have passed the same resolution by June, 1990, Quebec's resolution will not come into force.

If legislatures want to pick and choose individual parts of Meech Lake for approval, they will have to pass smaller, separate resolutions. In this "seamy" manner, they would probably be able to use the 7"50 formula to approve a discreet resolution to complete an assault on national shared-cost programs. They could guarantee an infinite series of first ministers' conferences to discuss, among other things, fisheries jurisdiction. They could constitutionally compel first ministers to gather each year to discuss the economy. The approval of all 10 provinces, however, would still be required for the rest – which amounts to most – of Meech's pieces.

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