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Patrick James

ABSTRACT

While Canada is lauded as a prosperous, democratic state, it continues to fail at constitutional reform. Rather than attempting to explain Canadian constitutional development from Confederation onward, this study focuses on the two most recent rounds: the Meech Lake and Charlottetown Accords. The investigation unfolds in six stages. First, rational choice and game theory, which provide the intellectual foundations for the forthcoming analysis, are introduced and linked to the study of constitutional politics. Second, prospects for a priori agreement on a constitutional initiative, independent of political maneuvering among governments and other actors, are assessed. Third, the Chain Store Paradox (CSP), a game-theoretic model, is related to constitutional politics at a general level. Fourth, the Meech Lake and Charlottetown Accords, Canada’s major constitutional initiatives in the last decade, are briefly described. Fifth, the CSP is used to explain the failure of the two Accords, which had different origins and contents, to achieve ratification. Sixth, and finally, the likelihood of a constitutional equilibrium is explored in the context of the preceding results, along with implications of the Canadian experience for other federations.

KEY WORDS • Canada • Charlottetown Accord • constitution • game theory • Meech Lake Accord

For the Government of Canada and those who study its political life, constitutional affairs are vexing and paradoxical. Both Liberal and Conservative regimes in Ottawa have tried to gain the consent of the provinces (and later the general public), but one or more objections always seem to stand in the way of a lasting constitutional agreement. As for the paradoxical nature of constitutional politics, centrifugal forces appear to gather momentum in response to efforts at reform.

What, then, can explain the sustained futility of Canadian constitutional initiatives? Rather than dealing with developments from Confederation

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onward, this investigation focuses on the two most recent rounds: the Meech Lake and Charlottetown Accords (MLA and CA). The basic argument will be that the federal government’s approach toward constitutional revision has contributed to its lack of success. Efforts to accommodate provincial interests have stimulated further demands and encouraged non-governmental organizations to enter the fray. This idea is developed more rigorously through application of the Chain Store Paradox (CSP), a game-theoretic model of bargaining between a central player and a number of smaller rivals.

Although the MLA and CA are fascinating events in and of themselves, constitutional politics in Canada are interesting for reasons that transcend its borders. To begin, over 90 percent of the world’s sovereign states are ‘multi-ethnic’ in composition (Cairns, 1992: 24). Thus Canada’s handling of ethnicity and multinationalism ‘has implications for the regroupings now occurring in Europe and for the ethnic and racial conflicts which dog much of the Third World’ (Sanders, 1991: 4). Events in Canada may also be pertinent to European integration because federalism is an important aspect of that process: How are powers most effectively divided between continuing national governments and supranational institutions? As democratic governments (and especially federations) increase in number and diversity, the Canadian experience with constitutional change attains even greater relevance (Kornberg and Clarke, 1992: 4). Weaver (1993: 32) notes that ‘Canada poses a number of important issues of concern to scholars of American and comparative politics, including the difficulty of building coalitions for institutional reform, the development of minority group identities, and the political dynamics of direct democracy instruments such as referenda.’ Russell (1991: 700) sounds a more dramatic and ominous note, comparing the trouble within Confederation to the sectional conflict experienced by the United States in the middle of the last century. In sum, because both optimistic and pessimistic scenarios seem viable, the Canadian dilemma becomes even more interesting (Kornberg and Clarke, 1992: 4).

This investigation unfolds in six stages. First, rational choice and game theory, which provide the intellectual foundations for the forthcoming analysis, are introduced and linked to the study of constitutional politics. Second, prospects for a priori agreement on a constitutional initiative, independent of political maneuvering among governments and other actors, are assessed. Third, the CSP is related to constitutional politics at a general level. Fourth, the Meech Lake and Charlottetown Accords, Canada’s major constitutional initiatives in the last decade, are briefly described. Fifth, the CSP is used to explain the failure of the two Accords, which had different origins and contents, to achieve ratification. Sixth, and finally, the likelihood of a constitutional equilibrium is explored in the
context of the preceding results, along with implications of the Canadian experience for other federations.

**Rational Choice, Game Theory and Constitutional Politics in Canada**

Within the constellation of research strategies, models and methods, rational choice stands out as a coherent and rigorous potential solution to the problem of linking the micro- and macro-levels of analysis. This approach already has made central contributions to the field of comparative politics (Booth et al., 1993). With respect to the field of Canadian politics in particular, rational choice informs research on electoral behavior, public policy, political economy and constitutional politics, among other examples. Constraints on space necessitate an overview restricted to studies that focus on constitutional politics, federal–provincial relations and interest groups in some combination.

Some game-theoretic treatments focus on federal–provincial bargaining over territory and resources. One study reveals that the persistence of the Lubicon Lake dispute (which focused on territorial entitlement versus more comprehensive and lucrative rights to use) can be traced to the Government of Canada’s involvement in a two-level game with aboriginals and the Government of Alberta. The attempt by the federal government to create further territorial claimants (such as the Woodland Cree), in opposition to the Lubicons, is seen as the logical outcome of the deadlock (Flanagan, 1992). Uslaner (1989) and James (1990, 1993a, 1993b; see also Church, 1993) explore bargaining between the Governments of Alberta and Canada over energy rents during the era of the National Energy Program, an issue with significant implications for later, more explicit, rounds of constitutional bargaining. These studies offer different explanations for the long stalemate that followed Alberta’s retaliation against the federal initiative, in the process revealing the range of game-theoretic concepts available for use. Uslaner, for example, finds that the Canada–Alberta Agreement of 1981 is the Nash bargaining point within the game.

Other investigations use formal analysis or game theory to deal with constitutional issues, including the amending formula, Quebec’s position in Canada, and litigation. One set of studies assesses the impact of the federal amending formula of 1982 on the relative influence of citizens in each province (Kilgour, 1983; Kilgour and Levesque, 1984; Levesque and Moore, 1984; Mintz, 1985; Kilgour, 1985; Pfeffer, 1994). The amending formula, noted in section 38 of the Constitution Act, requires the consent of Parliament and a minimum of two-thirds of the provinces (or seven, at present) representing at least 50 percent of the population. The basic conclusions from the literature about the formula are as follows: (1) it emphasizes
provincial over citizen-based equality; and (2) Quebec’s projected (relative) population decline predicts a reduction in its influence over constitutional change (Kilgour, 1983: 776–7; Kilgour and Levesque, 1984: 472).

Imbeau (1990, 1991, 1992) produces game-theoretic treatments of constitutional bargaining between Quebec, the other provinces, and the federal government in both 1981–2 and the present. He concludes that underlying preferences about constitutional affairs make an overall agreement unlikely and, other than Quebec, the provinces have a history of strategic voting. Meadwell’s (1993) formal analysis of cycles of nationalism in Quebec suggests that any bargain that did emerge would not be stable. Support for a constitutional overhaul is a function of Quebec’s perceived vulnerability as an autonomous state, which in turn depends on potential trade relations and the distribution of risk preferences among the population. These factors are subject to rapid change.

Brodie’s (1996) analysis of Charter-related litigation uses Schelling curves to explain the accumulation of interests represented in the courts. His model predicts that groups will seek Charter status until crowding effects eliminate the net benefits of doing so. Using the Province of Ontario’s Human Rights Code as an example, Brodie documents both the accumulation of status groups and the apparent end of that process a decade ago. Furthermore, the model correctly anticipates that some groups with Charter-based recognition will attempt to seek higher forms of status as the number of groups with recognition increases beyond a certain level.

While extremely valuable, none of the preceding studies adopts precisely the agenda and approach that will follow. For the present game-theoretic analysis, the central issues are raised by results from the two most recent stages of constitutional revision in Canada: Why did the MLA fail to achieve ratification in the full set of provincial legislatures by the deadline of June 1990? Furthermore, after moving beyond the closed (and repudiated) negotiations among first ministers, why did the Canadian polity reject the CA in October 1992? While it would be valuable to study the historical background to the recent constitutional crises, that is not the purpose of this investigation. Instead, the objective is to develop an overall explanation for the failure of executive federalism and provincial referenda to produce lasting constitutional results. It will become apparent that the ongoing lack of success follows a pattern, which a game-theoretic analysis can help to reveal. Furthermore, application of the CSP constitutes an improvement over preceding game-theoretic treatments; the Paradox builds in multiple rounds and players, asymmetric information, and reputational factors. It also should be noted, from the outset, that the investigation is not intended as a contribution to game theory in the abstract. Instead, the goal is to reap the benefits – and expose the limitations – of a sophisticated game-theoretic model.
Table 1. Notation for the Chain Store Paradox

<table>
<thead>
<tr>
<th>Symbol</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td>F</td>
<td>Government of Canada</td>
</tr>
<tr>
<td>R_k</td>
<td>Provinces of Canada in the bargaining over the Meech Lake Accord; this set expands to include interest groups for the Charlottetown Accord</td>
</tr>
<tr>
<td>p_k</td>
<td>Probability of actor k accepting F’s proposed constitutional agreement</td>
</tr>
<tr>
<td>E, E'</td>
<td>Strategies available to each R_k, meaning to compete and not compete with F, respectively</td>
</tr>
<tr>
<td>a_k, 0</td>
<td>Payoffs to F and R_k, respectively, if R_k decides not to compete; a_k &gt; 1</td>
</tr>
<tr>
<td>L, L'</td>
<td>Strategies available to F, referring to fighting and not fighting, respectively, if R_k selects strategy E</td>
</tr>
<tr>
<td>b_k - 1, b_k</td>
<td>Payoff to R_k if F does or does not fight (meaning L and L', respectively) where 0 &lt; b_k &lt; 1</td>
</tr>
<tr>
<td>0, 1</td>
<td>Payoffs to the tough Government of Canada from strategies L and L', respectively, when a small player selects strategy E</td>
</tr>
<tr>
<td>−1, 0</td>
<td>Payoffs to the weak Government of Canada from strategies L and L', respectively, when a small player selects strategy E</td>
</tr>
<tr>
<td>q_0</td>
<td>Initial probability estimate that F is tough</td>
</tr>
<tr>
<td>q_k</td>
<td>Probability estimate at stage k that F is tough</td>
</tr>
</tbody>
</table>

Prospects for Agreement: Executive Federalism and the Constitution Game

When the federal government proposes a constitutional agreement and each of the provinces is faced with whether or not to agree to it, the Constitution Game (CG) is said to begin. Table 1 summarizes the notation that will be used in the remainder of this exposition. The CG is a member of the class of ‘n-person’, as opposed to ‘two-person’, games (Davis, 1983). The CG is a variable sum game with elements of both cooperation and conflict. For example, the overall level of provincial autonomy might vary from one initiative to the next, producing collective gains or losses for the country as a whole, depending on the relative effectiveness of the resulting arrangements. Harmony, at a more general level, also factors into the equation; negotiations that produce a new cycle of demands and instability can be harmful across a wide range of dimensions, with economic insecurity being only the most obvious instance.

To place the CG in context, it is useful to consider the prospects for obtaining an agreement in the absence of strategic interaction. After all, if a constitutional initiative that is satisfactory to all parties could be proposed and accepted with sincerity, then there is no need for a game-theoretic analysis. It is important to remember that the following ‘thought experiment’, which yields relatively discouraging results, is based on
exceedingly unrealistic assumptions. In the real laboratory of constitutional experimentation, a much wider range of complications must be addressed.

Ratification of a constitutional agreement (on at least some issues) requires that the Government of Canada, \( F \), obtain the support of all ten provinces, including approval by each legislature. Let the probability of acceptance for a given province, \( R_k \), be \( p_k (k = 1, \ldots, 10) \). For at least two reasons it will be assumed that the choices of any pair of provinces are independent in at least the positive sense, that is, for any \( R_i \) and \( R_j \), knowing that \( R_i \) has ratified the agreement does not raise the estimate of \( p_j \).

First, payoffs are measured in terms of the distribution of material and symbolic resources. Economic rents and status within the political union are the obvious things at issue. If \( F \) grants one province some combination of wishes in return for its support, then others presumably will want to be rewarded as well. Given the assumption of self-interest, it is only natural for every province to seek the best position for itself that is feasible. If the disposition toward agreement correlates with an individual province’s satisfaction, then those still waiting for federal consideration of their demands are unlikely to be pleased about private gains by others.

Second, given the nature of provincial politics in Canada, each government is wary of appearing to follow the lead of any other. Constituents are anticipated to reward and punish the governing party on the basis of how the province is doing. At least to some extent, the comparison will be with other provinces, especially in a high-profile game of redistributive politics. For example, survey research reveals that many voters opposed the CA because they perceived one or more of its elements to be too indulgent toward other provinces, especially Quebec (Le Duc and Pammet, 1995).

Let it be assumed, to simplify matters for the moment, that the probability of accepting the agreement, \( p_k \), is the same for each province, that is, \( p_1 = p_2 = \ldots = p_{10} \). Then, assuming statistical independence, the overall likelihood of ratification, \( p_a \), is derived as follows:

\[
p_a = \frac{10}{\prod_{k=1}^{10} p_k}
\]  

(1)

The implications of this expression for creating an acceptable agreement a priori are conveyed by Figure 1. The curved labeled \( T \) shows \( p_a \) as a function of \( p_k \). It is clear that departures from 1.0 by \( p_k \) have a dramatic impact on \( p_a \). For example, when \( p_k \) falls to 0.93, the overall likelihood of

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1. It should be noted that none of what follows is based on estimation of the real probabilities of agreement. Instead, the purpose of this stage of the analysis is to manipulate parameters, such as \( p_i = 1.0 \) versus 0.7, in order to reveal the basic difficulties that confront any federal government in search of constitutional reform.
acceptance already has dropped to 0.5. Unanimity, it would seem, is rather difficult to achieve when ten independent centers of decision-making must be satisfied simultaneously. Consider the less challenging scenario of obtaining the approval of seven out of ten provinces, ignoring for the moment the population threshold of 50 percent noted in the 1982 amending procedure from Canada’s Constitution Act of 1982. The curve labeled S reveals that the situation remains very difficult for Ottawa; even $p_a = 0.5$ requires $p_k = 0.66$. (The binomial theorem is used to calculate the probability of each relevant outcome as an individual event, such as exactly seven in agreement.) In other words, to achieve support from at least seven of the ten provinces, the individual a priori likelihood of favoring an initiative would have to be approximately 66 percent.

These results suggest that a straightforward attempt by F to formulate and implement an agreement, without anticipating strategic interaction, is unlikely to succeed. Furthermore, if there is variation in $p_k$ among the
provinces – a property almost certain to exist – agreement becomes even less likely. Since the provinces are interested in relative as well as absolute gains, any positive change in individual likelihood of acceptance is virtually certain to be offset by a loss elsewhere. Suppose that for \( R_k, p_1 = p_2 \ldots = p_8 = p, p_9 = p + p_x, p_{10} = p - p_x \) and \( 0 < p_x < p_k, p < 1 \). Then the overall likelihood of unanimity is based on Equation 1':

\[
p_s = p^8(p + p_x)(p - p_x) = p^{10} - p^8p_x^2
\]

The resulting value is less than before, because the second component in (1') is greater than zero.\(^2\)

Recent history supports the contention that success will elude F if it tries to obtain ratification for an omnibus agreement without building in a strategic component to anticipate challenges. In 1987, the Mulroney Government and the provincial premiers unveiled the MLA, which acknowledged Quebec’s differences from the rest of Canada.\(^3\) They arrived at that agreement through a series of meetings conducted in virtual seclusion from the Canadian polity: ‘The ground was laid in quiet, secret meetings of federal and provincial officials, and there is some evidence that the negotiators were careful to avoid stirring public reaction which could threaten the chance of reaching a deal’ (Simeon, 1988: 21). As Cairns observes, more than anything else, the Accord resulted from ‘the internal dynamics of the intergovernmental arena responding to a problem within the constitutional system itself’ (Cairns, 1988: 115). Thus it is not surprising that the Accord reflected a process in which First Ministers were ‘virtually the only constitutional players’ (Gibbins, 1988: 127). The consensus, however, ultimately proved to be unstable.

When the deadline for ratification of the Accord by provincial legislatures approached in the summer of 1990, political interactions initially took much the same form as those of 1987. Given the contentious nature of the issues involved – most notably, division of powers between the federal and provincial governments – those who participated in 1987 regarded establishment of an initial consensus as the only hope for eventual success. A crisis atmosphere took hold as 1990 progressed, given the prospect that Meech Lake’s failure could alienate Quebec permanently from the other provinces. This disturbing possibility led to a series of meetings among the

\(^2\) If there is variation in \( p_x \), the assumption of rivalry implies that the \( p_n \) add up to less than 0. This condition ensures that the product of the probabilities with equal values will be preserved as the maximum value for Equation 1.

\(^3\) For an effective analysis of the evolution of the Quebec sovereignty movement, which is at the center of the Canadian constitutional dilemma, see Lubin (1997).
First Ministers, designed to restore unity through achievement of a compromise. Once again, the provincial governments bargained with each other and Ottawa over issues ranging from the ‘Distinct Society’ clause to the future of the Senate.

Despite the best efforts of the Prime Minister and his supporters among the provincial premiers, the Accord failed to achieve the necessary ratification by all provinces. This outcome is not surprising, given the fragility of any agreement that must retain the support of 11 governments. Even with secluded bargaining, the approach of the federal government set the stage for future acts of non-compliance. The use of concessions to obtain a consensus in closed meetings suggested that pressure tactics might meet with success at the stage of ratification. In other words, the tentative agreement reached in private at Meech Lake in 1987 depended on solidarity among the premiers, who later individually would face the temptation to pursue demands for revision of the supposedly untouchable Accord.

**Strategic Interaction and the Chain Store Paradox**

Given the quest by F for unanimous consent from the provinces, along with the relatively unfavorable environment of probabilities attached to securing agreement, it becomes more appropriate to seek a solution through strategic interaction. The Constitution Game includes F and R₁,⋯,R₁₀ in a situation with elements of both conflict and cooperation. While F attempts to induce provincial ratification of its constitutional initiative, the provinces seek other goals. For a situation of this kind, the CSP is a promising framework. This game-theoretic scheme of analysis pertains to a central actor faced with potential challenges from a set of smaller players. More specifically, the CSP focuses on the strategic interaction of a chain store and its would-be competitors, each of which is trying to decide whether to enter into a local market. In the CG, the Government of Canada is cast in the role of the chain store, facing potential challenges from each of the provinces. The analysis initially is restricted to executive federalism, although non-governmental actors eventually will be introduced. At this point the CSP is presented in generic terms, without specific reference to the attributes of the players in the CG.  

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Figure 2 shows the game in extensive form. The chain store is one of two types, strong or weak, for the moment unknown to the other players. In the abstract it is helpful to think of F as being drawn from some population with a distribution of types that is common knowledge to the players. The game begins with a move by nature, in which F, by revealing a constitutional proposal, generates an initial probability estimate about its type among the other players. This estimate reflects all previous knowledge about F. Prior to actions during the game that would fully reveal its type, F therefore is strong or weak with a given probability, \( q_0 \) and \( 1 - q_0 \), respectively. The game is repeated over a finite number of iterations, with the chain store facing a different challenger at each stage and accumulating payoffs. A challenge takes the form of entry into competition in a local market by one member of the set of potential small competitors. The number of iterations is identified with the number of locations, designated as \( n \). (Thus each potential entrant has precisely one chance to enter.) Finally, each small player knows the outcomes of all previous stages.

5. As noted by Friedman (1986: 139), ‘this version of the game lacks the complete information assumed in Selten’s [1974] original specification; therefore, it does not resolve the paradox on Selten’s terms’. However, in an applied context, the introduction of incomplete information about the preferences of players is desirable, because that increases the relevance of the model. Confronting the paradox in its original form is of more concern to game theory as a branch of mathematics.

6. With respect to federal governments, the history of a party and its leaders will establish beliefs about its type at the time of taking office. For example, in Canada, the Conservative (Liberal) Party is identified with (de)centralization, which corresponds to relative weakness (strength) in the CSP. It should be noted that weakness and strength are used in a technical rather than normative sense: it cannot be assumed that centralization of power or even continuing national existence is automatically desirable.
Potential entrants ‘can use the chain store’s past actions to revise whatever priors [i.e., existing beliefs] they might share about the chain’s type’ (Friedman, 1986: 139). The solution concept is sequential equilibrium.

For a federal government cast in the role of a chain store, weakness versus strength depends on the relative utilities derived from centralization and national unity. A weak player is one that values national unity to the extent that taking on challengers is seen as too costly. This player would rather not risk alienating the challenger, even if the result is decentralization of power or allocation of material resources. However, the underlying problem is the same one that faces a strong player: If the potential challengers realize that the federal government places so much value on national unity that it can be counted on to meet all demands, the result will be to dismantle the system itself. The irony is that short-term actions intended to preserve harmony (i.e., strategy L’ when challenged) contribute to a long-term unravelling of the federation. In Figure 2, the announcement of a constitutional initiative by F serves as the point of culmination for estimating \( q_0 \) prior to the beginning of play. The magnitude of \( q_0 \) depends on F’s overall record, although recent events are expected to count more heavily.\(^7\)

Consider first the situation facing a weak chain store, that is, the game depicted by the left branch of Figure 2. If challenged, it prefers to tolerate rather than resist competition. For the small store, \( R_k \), a decision not to compete (strategy E’ in Figure 2, permitting the chain store to retain its local monopoly) produces a payoff of 0 and the chain store continues to earn an amount \( a_k > 1 \). The value of entry into competition (strategy E, competing in the local market) depends on the chain store’s response. If the chain fights (strategy L, lowering prices) the payoff to the small store is \( b_k - 1 \) (\( 0 < b_k < 1 \)), while the value is \( b_k \) if it does not (strategy L’, tolerating competition).\(^8\) For the chain, the respective values are \(-1\) and \(0\). In the right branch of Figure 2, the basic difference is that the chain store prefers to fight. The tough chain receives \(-1\) from L’ and \(0\) from L.

Each iteration in the CSP produces either a challenge or a decision not to

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7. These events may include negotiations prior to a formal proposal. For example, in the MLA, Premier Bourassa and his Minister of Canadian Affairs, Silles Rémillard, had negotiated for two years prior to the 1987 conference. Such discussions are not treated as part of the CG because informal exchanges may not be followed by any potentially binding negotiations. Since some groups with interests in constitutional outcomes may eschew involvement in informal discussions (possibly due to scarcity of resources), it is best to restrict analysis based on the CSP to interactions that follow announcement of a formal proposal.

8. The values of \( a \) and \( b \) are assumed to be the same for each market in the generic presentation of the CSP. Payoffs in the CG, however, are assumed to vary across the provinces, so \( a_k \) and \( b_k \) are specific to F and \( R_k \). Alt et al. (1988: 450), in an analysis of reputation and hegemonic leadership, point out that payoffs can be permitted to vary in a game of this nature without affecting the overall results.
compete by a given \( R_k \). The chain store’s interest is in building a reputation for toughness, in order to deter competition. It seeks to raise the estimates among potential competitors that it will fight if challenged. Given uncertainty about its type, a strong chain store never yields. By assumption, when a competitor enters a local market, the chain store’s dominant strategy is to punish (L) rather than tolerate competition. (See the right branch of Figure 2.) Therefore, once a rival has entered into competition, only three actions are possible: 1. a strong chain retaliating; 2. a weak chain retaliating to build a reputation; and 3. a weak chain yielding. Since a strong chain store never yields, giving in reveals its weak nature to all of the potential entrants. In other words, if the chain acquires at stage \( k \) (recall that the order of entry is fixed and known, so both stages and challengers are denoted by \( k \)), then \( q_{k+1} = q_{k+2} = \ldots = q_n = 0 \), where \( q_k \) is the probability that a potential competitor at stage \( k \) believes that the chain store will fight if challenged.

For the weak chain store, the optimal response depends upon the stage of the game. At the last stage, \( n \), the best choice for the chain store is L’, regardless of \( q_k \). The chain store should fight at stage \( k + 1 \) when \( q_k > b_k + b_{k+2} + \ldots + b_n \). If \( q_k \) falls below this threshold, the recommendation is to fight with probability \( c_{k-1} \), which appears as Equation 2:

\[
    c_{k-1} = \frac{(1 - \frac{1}{b_k + b_{k+2} + \ldots + b_n})q_k}{(1 - q_k)b_k + b_{k+2} + \ldots + b_n}
\]

(2)

For the potential challenger, \( R_k \), the threshold values depend upon the same variables. If \( q_k > b_k + b_{k+2} + \ldots + b_n \), then \( R_k \) should not challenge F. The reverse is true when that inequality is reversed. When \( q_k = b_k + b_{k+2} + \ldots + b_n \), the decision rule is to stay out with probability \( 1/a \) and enter with probability \( (a - 1)/a \). Note that as the game progresses, the threshold for challenging F changes. Compare rounds \( k + 1 \) and \( k + 2 \); since \( 0 < b_k < b_{k+2} + \ldots + b_n \), \( b_k + b_{k+2} + \ldots + b_n < b_k + b_{k+2} + \ldots + b_n \). Thus it becomes increasingly difficult, all other things being equal, for \( q_k \) to exceed the threshold value of \( b_k + b_{k+2} + \ldots + b_n \), which would allow F to deter \( R_k \).

The chain store’s reputation for toughness cannot survive if everyone knows the true extensive form of the game (Ordeshook, 1986: 452).

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9. The order of entry for the \( R_k \) is assumed to be fixed and known. In the Canadian context, behavior prior to the outset of the game establishes the expected ordering of challenges. Provincial governments and interest groups have established histories in terms of the priority each attaches to challenging Ottawa. Quebec, for example, is anticipated to challenge first in virtually any round of bargaining because its constituency is most suspicious of bargaining between the federal and provincial governments.

10. The mathematical derivation of this threshold, along with the others that follow, may be found in either Ordeshook (1986) or Fudenberg and Tirole (1991). Since the \( b \) values vary in the present context. Equation 2 and the others that follow reflect that modification.
Consider the situation in iteration $n$ at the final node in the left branch of Figure 2, i.e., $k = n$. If challenged, $F$’s choice will be $L'$ because there are no future entrants to deter and the payoff is superior (i.e., $0 > -1$). However, the same logic then holds for stage $(n - 1)$ and so forth. Yet intuition suggests that the chain store can succeed by investing in its reputation, which means taking a firm position from the outset of the game. The short-term loss represented by $-1$ from the first of the two outcomes in the left branch of Figure 2 may be outweighed by long-term gains through deterrent effects. Fudenberg and Tirole (1991: 372) summarize prior research on the finite horizon CSP as follows: The probability of toughness for the chain store (i.e., $q_k$) that is required to deter entry shrinks geometrically as $n$ increases, provided that the probability of an entrant’s commitment to strategy $E$ does not exceed a particular threshold. The more potential entrants, all other things being equal, the less ferocious the chain store needs to appear, because the players collectively are further removed from the end point of the game. A weak chain store then is in a better position to hide its nature.

Put differently, as the number of small players increases, so do problems related to achievement of implicit coordination. As the number of entrants becomes very large, at least some will wonder about the likelihood of their peers challenging $F$. If the logic of collective action sets in to any degree, free rider effects may emerge (Olson, 1965). Individual $R_k$ may begin to believe that $F$ will be disposed toward punishing challengers from the outset, which in turn delays the probable first appearance of a challenger over stages of the game.

When attempting to explain the performance of constitutional initiatives in Canada, the CSP may be able to play the role of a unifying concept. In the CG, when $F$ puts forward a proposal, one or more of the $R_k$ may consider a challenge to all or part of its contents. Whether $R_k$ will confront $F$ depends on the relative magnitudes of the payoffs (i.e., $b_k$, the value $R_k$ obtains from a successful challenge) and the likelihood that something can be gained (i.e., $1 - q_k$, the probability that $F$ is weak), which in turn is linked to $F$’s handling of previous challenges. As noted, the paradox of the game is that, if the competitors discover the true nature of the chain store, the latter cannot bargain effectively. It is driven out of business by an increasing number of local competitors. Yet the game is not that simple and $F$ may be able to prosper, depending on its tactics. If challenged, an assertive response from $F$ may deter entrants elsewhere and preserve monopoly profits in many other local markets.

11. Negotiations among the $R_k$ are treated as exogenous to the model at this stage of its development.
The Meech Lake and Charlottetown Accords

The [Meech Lake] Accord recognizes the constitutional equality of the provinces, provides for an expanded provincial role with respect to immigration, gives provincial governments the dominant role in appointments to the Senate and Supreme Court, makes it easier for provinces to opt out of future national programs, and provides for an expanded provincial veto on future constitutional change (Gibbins, 1988: 122).

The package that Canadians rejected was formidably complex. [The Charlottetown Accord] became so by a decade’s accretion of elements, each calculated to appeal to, or to offset concessions to, groups excluded at an earlier stage – Quebec, the western provinces, and aboriginal people (Johnston, 1993: 43).

Despite vast differences in procedure and content, the Accords still met with the same fate. In searching for an overall explanation, game-theoretic or otherwise, the logical starting point is to summarize the bargaining process for each initiative. The ultimate purpose is to determine the extent to which a single framework of analysis, referring to the CSP, can account for both outcomes.

Negotiations among the first ministers, meaning the prime minister and provincial premiers, created the MLA. The meetings in 1987 and 1990 arose in response to problems of federalism. This process virtually guaranteed that ‘the outcome would reflect the interests of governments’ (Cairns, 1988: 116). In particular, the federal government hoped to bring Quebec explicitly into the constitution and also promote intergovernmental harmony. A summary of the background to the MLA and its stages of development will facilitate analysis in terms of the model.

Quebec did not sign the 1982 Constitution and that presented the federal government with an ongoing problem. Nationalist (and even some federalist) Quebecers regarded the constitutional status quo as illegitimate. Quebec had lost its informal veto over constitutional change, federal powers remained unaltered, and the Charter of Rights and Freedoms posed problems for crucial pieces of legislation. In particular, the Charter threatened the legality of provincial laws on minority-language education, which had been designed to promote the position of French in relation to all other languages.

Elected in 1984, the Mulroney Conservatives depended heavily on support from Quebec and hoped for an opportunity to solidify their position in that province. After the election of Robert Bourassa’s Liberals in 1985, Quebec had a more federalist orientation, which provided an opportunity for constitutional reform. Bourassa put forward five demands: recognition of Quebec as a ‘Distinct Society’, a veto on constitutional amendments, a limitation on federal spending power, a role in appointment of Supreme Court justices, and a role in immigration policy.

North of Ottawa, at a summer retreat in a national park, the prime minister and the provincial premiers reached an agreement on constitutional reform. The MLA recognized Quebec as a Distinct Society and extended the four other conditions to all of the provinces. A commitment to annual meetings for the first ministers also appeared in the Accord.

Constitutional rules created a deadline of 23 June 1990 for the Parliament and provincial legislatures to ratify the MLA. The Accord received quick approval from eight provinces and the Parliament. However, problems developed in Newfoundland, which withdrew approval, and continued in Manitoba and New Brunswick. As time expired, an NDP member of the Manitoba legislature refused the unanimous consent required for the Accord to be introduced into debate. Thus Elijah Harper, a Cree, ensured the failure of the MLA, which he and other critics saw as unresponsive to the interests of aboriginals. At the same time, Newfoundland’s Premier Clyde Wells adjourned the provincial legislature without holding a vote. In this manner the MLA passed into history.

After the debacle over Meech Lake, Mulroney turned to a process of consultation. He believed that a series of meetings and discussions beyond the first ministers could help to build the much wider public consensus that any sequel to Meech would have to achieve. Thus Mulroney directed the Spicer Commission to hold a series of public consultations. Regional conferences followed, from one coast to the other. The federal government spent an additional nine million dollars on the process of consulting aboriginals. In Quebec the Belanger-Campeau Commission held a series of meetings designed to pick up information about how voters in that province might react to a new set of proposals. These events are summed up effectively by Bothwell (1995: 222): ‘In a time of recession, there was certainly one area of growth and prosperity in Canada: the constitution industry’.

Two years after the failure of Meech Lake, the federal, provincial and territorial governments, along with aboriginal leaders, reached agreement on the Charlottetown Accord. The Accord reflected the extensive and solicitous process of consultation that led up to its negotiation. The CA contained a wide range of amendments over and beyond those of Meech Lake. In addition to Quebec’s demands from the era of the MLA, the CA contained basic Senate reform, restrictions on federal spending power and review of division of powers, territorial demands related to the process of achieving provincial status, aboriginal demands for recognition of their inherent right of self-government, federal proposals about the economic union of Canada, demands by private groups for a social charter, and revision of the constitution respecting regional disparities, equalization, and regional development.

Despite an extremely expensive media campaign in favor of the CA, the
voting public rejected this comprehensive package of proposals by 54 percent to 46 percent. Three provinces – Prince Edward Island (74 percent), Newfoundland (63 percent) and New Brunswick (61 percent) – and the Northwest Territories (60 percent) – approved the CA, with Ontario evenly divided. The other provinces and the Yukon rejected the CA by margins ranging from 49 percent to 32 percent in favor, for Nova Scotia and British Columbia, respectively (Russell, 1993b: 227).

Meech Lake, Charlottetown and the Chain Store Paradox

Prime Minister Mulroney agreed with the prevailing philosophy among the premiers at Meech Lake, namely, that governance should become less centralized: ‘the federal government’s bargaining strategy was to keep adding concessions until agreement was reached’ (Cairns, 1991: 153). More specifically, at the very first meeting, the Prime Minister attempted to ‘make early progress on the least contentious points’ and build a consensus (Cohen, 1990: 6–7; see also Monahan, 1991: 92). Mulroney achieved a tentative agreement in 1987 at Meech Lake and Langevin Block, and seemed to restore that consensus in 1990 at the Government Conference Center, but in the end the MLA fell short of ratification in the full set of provincial legislatures.

Several reasons have now been generally accepted in accounting for the ultimate failure of Meech Lake. The most prominent are the need for unanimous agreement (Cohen, 1990: 273–4; Cairns, 1992: 106), the hostility provoked by Bourassa’s use of the notwithstanding clause in 1988 (Cohen, 1990: 273–4; Monahan, 1991: 253), changes in provincial governments after 1987, and the roles played by prominent individuals such as Brian Mulroney, Pierre Trudeau, Elijah Harper and Clyde Wells. Other miscellaneous reasons include the three-year ratification period, federal inability to properly ‘sell’ the Accord to the public, animosity toward the Progressive Conservatives, and the size and diversity of Canada (Cohen, 1990: 273–5).

More fundamental explanations focus on the archaic nature of executive federalism as a means of constitutional change (Cairns, 1991: 246). Monahan (1991: 238), in less abstract terms, describes Meech Lake as too private as a process and too provincial as a document. This argument focuses on the role of the Charter of Rights and Freedoms as a catalyst for the elites of non-governmental organizations, who rejected executive

13. The notwithstanding clause in the Constitution Act permits provincial governments to preserve legislation that violates one or more statutes. Bourassa used the clause to protect laws against the use of English on commercial signs, an act designed to appease francophone nationalists that also had the effect of alienating many supporters of Meech Lake outside of Quebec.
federalism and its constitutional by-product, the MLA. Cairns (1991: 114–15) observes that, in response to the announcement of Meech Lake in 1987, objections came from sources as varied as the Yukon and North West Territories, Alliance Quebec (a Quebec English-language rights group), the Canadian Labor Congress, and the Human Rights Institute of Canada.

Yet there is an even more basic explanation for why things did not work out for the MLA, which later will help to account for the fate of the CA as well. Consider the process of intergovernmental bargaining that produced the Accord. As noted previously, Mulroney tried to accommodate provincial interests and he encountered no shortage of them during the negotiations at each stage. To begin, Quebec received more power over immigration and that set in motion an important dynamic. Observing Quebec’s success, the other provinces pursued and won the right to negotiate similar agreements. The same process unfolded with respect to selection of judges for the Supreme Court: the other provinces imitated Quebec’s demand for input. Discussion turned to expansion of the Court, in a tentative effort to acknowledge the needs put forward by the premiers (Cohen, 1990: 7). Similarly, Newfoundland’s Peckford observed Getty and Vander Zalm’s success in obtaining annual conferences on Senate reform and ‘decided to press his claims on the fishery’ (Monahan, 1991: 95). By 1988, two years before the final meetings just prior to the deadline for ratification, efforts by New Brunswick and Manitoba to obtain changes had stimulated demands from Alberta and British Columbia, where the popularity of the Accord continued to decline (Monahan, 1991: 154). Cairns (1988: 112) sums up this bargaining process: ‘The other nine provinces were not passive spectators as the federal government orchestrated a response to the Quebec government’s constitutional demands. The threat of their power to block gave them significant constitutional leverage, which they employed for their own interests.’ In sum, the MLA transferred authority from a federal government eager for compromise to provincial governments that wanted more power (Gibbins, 1988).

When viewed in the context of the CSP, the conduct of the federal government is puzzling. In dealing with challengers, the government responded with concessions. Ottawa revealed itself to be a ‘weak’ chain store, without the commitment to absorb costs in order to deter entrants. It effectively encouraged further demands. This process can be explained in more formal terms by a consideration of the impact on provincial benefits and beliefs, meaning $b_k$ and $q_k$, respectively.

For each potential challenger, the calculation of $b_k$ would be influenced, at least to some extent, by beliefs about how private gains affect the ability of $F$ to provide collective goods. Variation in the magnitude of $b_k$ also indirectly builds-in differences in strength between the provinces. The
utility attached to collective goods provided by Ottawa is affected by a province’s projected standing under deconfederation. Thus the value of $b_k$ becomes a function of both self-perceived individual viability and the value of policies implemented by Ottawa. (The example of Quebec’s disposition toward challenging, which follows shortly, brings out the range of factors at work in determining $b_k$.) Ultimately, the most significant constraint would be the desire to preserve the superstructure itself, that is, confederation. But consider, in that context, the impact of concessions at any given stage. The allocation of private goods – whether primarily symbolic and potentially lucrative or more directly material in value – reduces the pool of resources that $F$ can distribute for purposes of general interest. As the process of granting privileges unfolds, the restraint exercised by the desire to preserve the country diminishes for those still waiting. Thus any accommodationist approach by $F$ entails a pernicious effect, at least in terms of prospects for national unity. The distribution of private benefits reduces the value of Canada as a provider of collective goods and, consequently, as a political entity.14

Provincial beliefs as well as benefits are influenced by the process of accommodation. The Province of Quebec is the natural starting point for this analysis. While every province effectively played a two-level or ‘nested’ game (Putnam, 1988; Tsebelis, 1990) – with its constituents and Ottawa – Quebec faced the most intense cross-pressure. Premier Bourassa had to cope with a long-standing, intensely committed and highly attentive separatist movement within Quebec. Blais and Nadeau (1992: 93) describe the ‘sovereignist’ (or separatist) clientele on the basis of survey results: ‘it is more strongly attached to Quebec than to Canada, optimistic about the political and economic consequences of sovereignty, pessimistic concerning the feasibility of renewed federalism, somewhat critical in its evaluation of federalism but, surprisingly, not distinctly confident about the feasibility of sovereignty-association.’ Thus Bourassa would have an incentive, in any negotiation with the federal government, to present himself as the voice of reason within Quebec, badly in need of concessions in order to undermine the appeal of both sovereignty-association and complete separation from the rest of Canada.

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14. One complication raised by this logic is that concessions to a given challenger also reduce what is available to others who remain in waiting, which would seem to discourage further entrants. With respect to decentralization of power, one of the two basic types of payoff, rivalry effects are not at issue: provinces (or interest groups) preside over discrete territories (or focus on different issues), so the ability to grant concessions to later entrants is not affected by the cumulative record. The capacity to make the other type of concession, referring to material resources, can be maintained through deficit spending. Since a practical upper limit to national debt is reached only over the relative long term, a compliant approach toward competitors may be sustained for many years.
Quebec had the greatest desire to change the status quo represented by the Constitution Act. When Quebec, designated as $R_q$, challenged $F$ on the issue of immigration, Ottawa tolerated its competition at the outset. The selection of $L'$ by $F$ in response to Quebec did produce a higher immediate payoff, but this also had the effect of lowering the value that other players assumed for $q_k$. Further challenges ensued. The agenda expanded from that of Quebec to a ‘provincial round’ (Cairns, 1991: 145).

Consider the situation faced by $F$ in the first round of bargaining at Meech Lake. Given Quebec’s desire for change and perception of Ottawa as a conciliatory actor, it is likely that $q_0 < b_1b_2 \ldots b_{10}$, which favors a challenge. So, if confronted by $R_q$, $F$ should fight with probability

$$c_1 = \frac{(1 - b_1b_2 \ldots b_{10})q_0}{(1 - q_0)b_1b_2 \ldots b_{10}}$$  

(2')

Assume, for the moment, that the $b$ values average out to 0.9, meaning that each province attaches a relatively high value to entry into competition with $F$. (Recall from note 2 that, if the $b$ values vary around the average, the result will be a lower product when multiplied together.) Based on Equation 2', for $c_1$ to meet 0.5, the level required to produce an evenly mixed strategy for $F$, $q_0$ must be greater than 0.21. Put differently, even when an entrant is eager to change the status quo and $F$ is regarded as less than 22 percent likely to fight back, competition becomes a viable part of a mixed strategy for Ottawa.

Against more deferential opposition, with less to gain – meaning larger and smaller values for $q_k$ and the $b$ values, respectively – fighting back emerges as the strategic norm. In a hypothetical second round, assume that the $b$ values average out to 0.5, indicating the presence of challengers with perceived payoffs of moderate size along the continuum:

$$c_2 = \frac{(1 - b_2b_3 \ldots b_{10})q_1}{(1 - q_1)b_2b_3 \ldots b_{10}}$$  

(2’’)

For an evenly mixed strategy to emerge as the recommended policy for $F$ (i.e., $c_2 = 0.5$), $q_1 > 0.001$ is sufficient. Even if $F$ is virtually bereft of credibility, there is an incentive to resist a challenge. The resulting message of the CSP is straightforward: Under a wide range of circumstances, $F$ should fight back and attempt to build a reputation for toughness.

Implications for the strategy pursued by Mulroney in 1987 and 1990 are clear. Provincial governments simply lost respect for Ottawa. Since the federal government had only finite resources to give over a constrained period of time, and some of the provincial demands conflicted with each other, the strategy of accommodation held little promise for lasting success. Ultimately, it failed. Resistance to initial challengers, in the form of
measured threats or punishments, might have produced a different series of events.

While the results of a more assertive strategy can never be known, the pernicious effects of appeasement extended beyond the failure of Meech Lake in 1990. Cairns (1991: 261) notes that ‘constitutional selfishness turned out to be contagious’. This is just what the CSP would predict, given the presence of a pliable federal government. How could it be otherwise? Through its dealings with provincial governments, Ottawa had set the stage for an expanded set of ‘local competitors’. The Charlottetown Accord included a wide range of amendments that responded to the demands of an ever-increasing list of interest groups, most notably those with some connection to women or aboriginals. These groups lacked the resources of the provincial challengers from the Meech Lake era, but came forward anyway and obtained an impressive list of concessions. The sheer number of constitutional amendments within the CA is a tribute to their success.

Additional entrants with limited resources make sense when viewed in the context of the CSP. When F fails to punish a challenger at stage \( k \), \( q_{k+1} = 0 \) and for all subsequent stages. Thus even groups with relatively few members and limited resources can consider a challenge; at an earlier stage, only an actor with the size and commitment of Quebec might be so bold. Thus the logic of the CSP is that Bayesian updating of assumptions about F, in response to its actions, would produce more challengers, in an approximately descending order of ability to compete. As time passes, \( k \) increases toward \( n \), causing the threshold value \( q_k \) (i.e., \( b_{k+1}, b_{k+2}, \ldots, b_n \)) to increase also, because \( 0 < b_i < 1 \) for all \( i \). Thus both qualitative and quantitative changes are predicted. Local competitors will proliferate and expand to fill the continuum of capabilities, eventually including even some very weak and narrowly focused actors.\(^{15}\)

Impressionistic evidence from the referendum campaign for the CA is consistent with the implications of the CSP as just presented.\(^{16}\) After Meech Lake, aboriginals had adopted Elijah Harper as a spokesman, hoping to gain a place of some kind in future constitutional bargaining. But as the federal government continued to make concessions, and the CA evolved, more specialized interests emerged within the aboriginal community. The Native Women’s Association of Canada expressed concerns about a clause that might have permitted aboriginal self-government to

\(^{15}\) Even if the payoff to a province or interest group is regarded by its peers to be a private good, the latter still are anticipated to experience a heightened sense of urgency in pursuit of federal benefits. The compensation obtained by a given interest group or province is not expected to reduce the perceived availability of further payoffs, given the federal government’s historical willingness to incur debt in order to achieve political goals.

\(^{16}\) The primary source for this discussion is coverage by The Globe and Mail during the month of October 1992.
threaten gender equality. In the end, they even managed to change its contents. The Métis and Inuit emerged as different interest groups, with tensions running very high as the campaign progressed. Consider, for example, this query from Philip Fontaine, grand chief of the Assembly of Manitoba Chiefs: ‘How can Canada meet its obligations to those of us it has failed in the last 125 years when you include the Métis and Inuit in this package and give them the same status?’ In the end, Indians moved toward the ‘No’ side, with Inuit and Métis leaning more in the direction of ‘Yes’.

Among the available perspectives on constitutional politics, the most fully articulated is Cairns’ (1992; see Sproule-Jones (1993) for competing perspectives on constitutional history) analysis of rights, which is commonly referred to as the ‘Citizens’ Constitution Theory’ (for a critique and response see Brodie and Nevitte, 1993a, 1993b; Cairns, 1993). He argues that groups identified and inspired by the Charter of Rights and Freedoms – women, multiculturals and aboriginals – led the charge against the MLA. After the failure of the MLA, Cairns (1991: 251) anticipated and endorsed a more open process of constitutional revision. Consider as well the relatively hopeful words of Kornberg and Clarke (1992: 262): ‘Greater public involvement in the ongoing process of constitutional renewal may serve as an effective surrogate [for a sense of nationhood] – generating the kinds of overarching community sentiments that can overcome the persistent centrifugal forces generated by subnational allegiances of various kinds.’ All of the groups that came forward before the special parliamentary committee in the summer of 1987 – including minority language representatives, labor, women, ethnicities, northerners, aboriginals, farmers, nurses, public servants and others (Cohen, 1990: 273–4) – had a chance to participate in the Charlottetown round. But the inclusive agenda represented by the CA also failed to win the support of the public, with – ironically – seven out of ten provinces either evenly divided or opposed. As in the case of the MLA, several ad hoc explanations have been offered for the failure of the CA. These range from public disgust with the Conservatives to the advertising campaign of the ‘Yes’ side in the referendum, which had stressed the negative consequences associated with rejection of the Accord.

Based on the CSP, there is a straightforward explanation for the referendum’s failure. Along with more principled opponents of Ottawa, even those who received concessions reasonably could vote against the Accord. Knowing the weakness of the regime in Ottawa, many existing and proposed beneficiaries might conclude that further concessions would be forthcoming. Why entrench a deal that could look mediocre a short time later? In fact, both Quebec and aboriginal voters produced majorities for ‘No’. Among the sizeable minority of ‘Yes’ voters, two kinds are likely to exist, from the perspective of rational choice: (1) those identifying with
Ottawa and seeking peace at any price; and (2) beneficiaries of the Accord who feared that no better deal would be forthcoming in the near future.

Strategic ‘Yes’ voting outside of Quebec, in an effort to show hostility to that province, would be a possibility once the latter had demonstrated its overall preference for ‘No’. However, neither of the two conceivable preference profiles would generate an interest in such voting. First, consider those who opposed Quebec’s agenda but generally liked the Accord. Even with support from all other provinces, it is unlikely that Mulroney would have followed Trudeau’s example and proceeded to isolate Quebec. Second, for those who disliked both Quebec’s agenda and much of the remainder of the CA, a ‘Yes’ vote could be interpreted as weakness rather than hostility. After all, the anglophone community in Quebec – motivated primarily by the desire for a settlement – had been relatively positive in its evaluation of the Accord.

While the discourse of rights may be able to compete with the CSP as an explanation for Meech Lake’s failure, the same is not so obvious in the case of Charlottetown. The traumatic Canadian fall of 1992 looks more like a discourse of rents. Under the cloak of constitutional recognition, interest groups pursued economic rents at public expense (Landry, 1993). Explicit demands for funding accompanied arguments in favor of stronger acknowledgement in constitutional clauses, with employment-related privileges, territorial concessions and other material payoffs creeping into the discourse as it progressed. Greater public involvement in reform ‘simply led to new grievances, stimulating demands for additional rounds of reform to address those grievances’ (Weaver, 1992: 54). In sum, this unhappy result is more in line with the logic of the CSP than the relatively optimistic forecasts attached to introduction of a wider range of participants and a dialogue of rights.

While further objections could be raised, it is essential to answer salient criticisms of the preceding application of the CSP. These arguments concern the nature of competition. F’s objective in the game, the game’s time horizon, beliefs held by players about each other, substantive meanings attached to the parameters $b_k$ and $q_k$, and the role of the individual citizen.

What is the nature of competition? Is it for votes or something else? This is an essential question to answer because application of the CSP requires that the federal and provincial governments, along with mobilized interest groups, be treated as suppliers competing for the same market. Control over policy, within the domain of a specific issue or at a general level, is analogous to sales. Provincial governments and interest groups compete

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17. The classic exposition on rent-seeking, or the non-productive pursuit of economic gain through redistribution, appears in Buchanan et al. (1980).
with the federal government for authority over the future stream of outcomes in a range of areas. For example, Quebec’s challenge, regardless of the exact form that it takes, always focuses on basic authority within its borders. Pursuit of special status is motivated by an ambitious agenda; Quebec seeks effectively equal powers, but not always responsibilities, with the federal government. Other ‘local’ competitors seek control over (metaphorically speaking) smaller markets. Interest groups such as the Women’s Legal Education and Action Fund, the Disability Rights Council and the Charter Committee on Poverty Issues have exerted pressure on the federal government to recognize their authority within various policy domains (Brodie, 1996: 254). In sum, both provincial governments and interest groups, during each round of constitutional negotiations, have attempted to gain control over the ‘supply’ of policy in areas ranging from national identity in general to a wide range of issues in particular.

Although the CSP as a model of interaction is concerned with deterrence, the chain store in the present game is seeking support for a proposal. Why should a demand (or even a request) for an amendment be regarded as a challenge, analogous to a local store entering into competition with a monopolist? This raises the issue of what punishment means in such a game. In the abstract case of the chain store and market control, strategy L in Figure 2 means lowering prices drastically, in an effort to drive the upstart out of business. What, then, are the implications of strategy L in the world of constitutional bargaining? Given federal jurisdiction in a wide range of areas, and especially the power to redistribute wealth, the governing party would have a number of means at its disposal. The goal of such coercion would not be to alienate an adversary permanently, but instead create the basis for eventual cooperation. This idea may seem counterintuitive, but conflict sometimes can be constructive. Experimental and impressionistic historical evidence suggest the value of reciprocity as a basic approach toward bargaining (Axelrod, 1984). If a demand for decentralization of power is met with a firm response, that may encourage rather than inhibit later cooperation.

Although there might be some serious obstacles to Ottawa’s implementation of a draconian response – such as members of parliament from the province in question – party discipline is very strong in Canada.\(^{18}\) Of course, if strategy L is adopted in an initial instance, punishment may become necessary only on rare occasions, because many potential challengers will have been deterred. For example, while it may have been an inefficient economic policy, Ottawa’s highly coercive National Energy

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18. Strategy L in response to demands by a non-governmental actor would have a different meaning. Here Ottawa could imply that efforts toward rent-seeking would be met by unfavorable legislation. Given widespread public reaction to the CA as a ‘wish list’ for interest groups, it might even be politically astute to respond firmly to pressure.
Program eventually produced a compromise with its principal target, Alberta. The 1981 Canada–Alberta Agreement set the stage for similar agreements with other energy-producing provinces, but only after Ottawa had established its bargaining reputation through a confrontation with the most committed opponent.

Since the CSP assumes a finite number of iterations, it could be argued that it does not apply to federal–provincial bargaining, which obviously continues beyond a given round of constitutional reform. However, even an initially popular government, federal or provincial, will be aware that its ‘life expectancy’ is limited; the unknown element, of course, is the exact point of termination. Furthermore, interactions related specifically to constitutional change are restricted to a given proposal. Thus it is viable to assume that the federal government will experience a finite number of challenges.

Another objection to the CSP concerns knowledge about the federal government’s identity as a type of chain store. Bargaining between Ottawa and the provinces is virtually uninterrupted. Along with a wide range of bilateral contacts, conferences of the first ministers occur on a regular basis. Thus it might be argued that the provinces will know the federal government’s preferences from the outset of the game. While reasonable on the surface, this argument is flawed for at least two reasons.

First, it projects knowledge gained in other contexts onto the experience with constitutional mega-politics, to once again borrow Russell’s (1993a, b) increasingly familiar term. In other words, behavior in ongoing interactions may not necessarily predict either initiatives or reactions in a crisis, although it probably helps to narrow the range of possibilities.

Second, if F is transparent, then so are its adversaries. Why should one be able to learn and not the other? This suggests that prolonged stalemates and cantankerous arguments – two common traits of Canadian constitutional politics – ought to be practically unknown. It is more reasonable to assume that the past record provides the basis for an initial assessment of Ottawa’s assertiveness, which can and does change during the Constitution Game. In particular, the very nature of the game suggests that the central (and substantially larger) actor will enjoy ‘superiority in the possession of information’ (Alt et al., 1988: 447). This is most obvious with respect to private, informal negotiations with the provinces. The latter must rely, at best, on second-hand reports about some of the most important bargaining within other federal–provincial dyads.¹⁹

¹⁹ Measurement of the key parameters, $b_k$ and $q_k$, is a topic that lies beyond


the agenda of the present study. However, it is feasible to pursue an example. For a potential challenger, whether or not $q_k$ is less than $b_k + b_{k+1} + \ldots + b_n$ – the threshold for going ahead – is the crucial question to answer. So it is interesting to speculate on how Quebec, if faced with a new constitutional proposal of some kind, would be inclined to proceed. Although a Liberal regime replaced the Conservatives in power at the federal level, its budget for 1996 did not suggest a shift upward in $q_k$. Despite a fiscal crisis, the federal government kept transfers to advocacy groups and regional development grants at existing levels. In other words, Ottawa did not reduce the expensive ongoing side payments to either interest groups or the provinces. From a reputational standpoint this would not bode well for any new constitutional initiative, to the extent that one might even be in the planning stages.

Assessment of $b_k$, in the context of the present Quebec government being confronted with a new proposal from Ottawa, might focus on public opinion. A challenge from Quebec in a future round almost certainly would have to entail something close to sovereignty-association. As a change in the province’s form of government, sovereignty-association would be analogous to a collective good. Its attractiveness would depend on the proportion of the public that favored such an arrangement. Since committed federalists would fall outside of the Parti Québécois’ potential constituency, the proportion of relevant voters would be higher than the support recorded in a poll. As support for sovereignty increases (decreases) to the ceiling (floor) of potential supporters, $b_k$ approaches its maximum (minimum) value of 1 (0).

Among the complications for the CSP noted here, the final one is the role played by individual citizens. Where do voters enter into the model? This question is very useful, because answering it creates an opportunity to clarify the boundaries and participants of each sequence of play, referring to events surrounding the MLA and CA, respectively.

Meech Lake is understood best as an exercise in executive federalism. Interactions begin in 1987 with the drafting of the Accord and end in 1990 with the expiration of its three-year deadline for adoption. In the case of Charlottetown, the game effectively starts with the proposal of the Accord and terminates with the referendum of October 1992. The cast of characters is more extensive, with the set of $R_k$ ultimately consisting of provincial governments and interest groups, broadly defined. While Mulroney temporarily achieved the success that eluded him in 1990 – meaning support for a constitutional agreement from all ten provincial premiers – new ‘competitors’ challenged and defeated the Accord. By the time the CA emerged as the product of demands (in some cases implicit) by interest groups and premiers, it could not satisfy the final and most important challenger to mobilize: the general public in each province, in Olson’s (1965) terms, the
most ‘latent’ group of all. Johnston (1993) refers to the outcome as a ‘reverse logroll’; despite virtually unanimous (albeit potentially temporary) support from members of the political elite – including all ten provincial premiers, both representatives of the northern territories, and the leaders of four prominent aboriginal organizations – most provinces produced a majority vote against the Charlottetown Accord.

**Canada as a Chain Store: Problems and Prospects**

Although no formal initiative is currently before either provincial governments or the public, the issues from Meech Lake and Charlottetown remain in the collective memory. The preceding analysis of these recent episodes of bargaining, guided by the framework of the CSP and the general perspective of rational choice, may help to anticipate what the future holds. In the words of the late Prime Minister Lester Pearson (from 1966), if federal compromises merely encourage the desire for concessions, ‘this country is in for serious trouble’ (Caplan, 1989: 431). Pierre Trudeau, who followed Pearson in office, continues to express the view that concessions spell trouble for confederation (Trudeau, 1989: 66; 1992: 26).

Whether sympathetic to that interpretation or not, a consensus on the futility of further efforts at reform seems to have emerged from recent experiences with the concession-based approach (Dion, 1993: 42; Johnston, 1993: 48; Russell, 1993a: 36). This conclusion is quite consistent with an analysis based on the CSP: a worsening situation emerges as the outcome of an accelerating series of demands and concessions. The perceived costs of further efforts toward reform overwhelm the potential benefits, at least for the time being.

More than intuition underlies this analysis. For example, the persistent failure of constitutional reform might produce the conclusion that Canadians have learned an important and ultimately beneficial lesson (Boyer, quoted in Bothwell, 1995: 227): ‘The end result was better than we ever could have dreamt of, because the result of the defeat of the Charlottetown accord was that [the] seemingly unstoppable process of constitutional discussion in Canada, which saw more and more of our country’s political issues being ‘constitutionalized’ rather than being addressed in parliament – a constitutional locomotive – had at last been derailed. And it happened without the country splitting along regional or linguistic lines.’ While this conclusion is not unreasonable, it stands in complete opposition to what is inferred from the model. In game-theoretic terms, the current situation is path-dependent; in other words, it is impossible to detach it from the events that led in this direction (Lusztig, 1994). The provinces and interest groups have an established appetite for
concessions and, based on the outcome of the last national referendum, the
general public is aware of, and unwilling to, bear the costs of compliance.

Unfortunately, by now the players have established beliefs about what
kind of political chain store to expect in Ottawa. The expectations of
provincial governments and interest groups are unlikely to become more
restrained after the tentative gains experienced through the proposed
Accords. Expansion of both the substantive and procedural agendas, most
visible after Meech Lake, appears to be a permanent feature of Canadian
politics (Manfredi, 1993; Russell, 1994). At present, the struggle for
recognition and rents continues in the courts.

At this point, some speculation is in order. To achieve a more desirable
long-term arrangement, and prevent possibly irreversible damage to both
the national psyche and economy, the option of deconfederation may
deserve serious attention (Imbeau and Laforest, 1991/92: 24; Bercuson and
Cooper, 1991). Further research should focus on the removal of certain
trenched political differences from Canada through provincial secession,
which in turn might permit constructive debate on a more limited range of
issues. Trudeau’s more lasting (although partial) success in obtaining
agreement from nine of ten provinces in 1981, through what certainly must
be considered a coercive or ‘hard-line’ strategy, sets an interesting preced-
ent.

While Prime Minister Jean Chrétien sounds very different than Brian
Mulroney, the pernicious impact of the concession-based strategy should
not be underestimated. A further and counterintuitive problem for Chrétien
is raised by the unintended message that might result from adoption of
a hard-line, punishment-oriented approach. If the federal ‘chain store’ is
assumed to be weak, a high level of provocationality may fail to produce the
desired effect on its reputation (i.e., increasing $q_0$). In other words, an
extremely punitive approach may be regarded as evidence of Ottawa’s
underlying weakness. Thus the suboptimal strategy of Mulroney’s govern-
ment created potentially overwhelming complications for the prime minis-
ter who followed him after a brief interlude of continuing Conservative
rule. Intuition would suggest that, in such a difficult situation, the federal
government should look the other way at minor transgressions but retaliate
severely against what are perceived to be more extreme provocations,
whether from provinces or other entities. It almost goes without saying that
the prognosis for renewed federalism is very unfavorable indeed, given the
legacy of the previous government.

Consider the experience with the Quebec referendum, which in 1995
produced a narrow victory for the federalists. The federal government took
a very hard-line approach toward the separatists until the end of the
campaign, but survey research suggests that it did not sway the voters. The
CSP anticipates what then occurred: Ottawa (a) reverted to a concession-
based approach toward the end of the campaign (i.e., L' rather than L in the language of the CSP); (b) appeased post-referendum Quebec with discussions about asymmetrical federalism that would give it special status; and (c) encountered resistance to its ideas from other provinces that hoped to obtain further concessions. These developments reflect the path-dependence created by previous rounds of constitutional mega-politics: changing the identity of the federal player cannot erase memories of previous rounds of play.\textsuperscript{20}

Some signs of progress should be acknowledged, to restore a sense of balance to a generally discouraging overall perspective. However, even the four constitutional developments listed below have resulted from a combination of judicial decisions, legislation, intergovernmental agreements and individual amendments to the constitution, not mega-politics:

1. Some important constitutional decisions of the Supreme Court that significantly expand the rights of the criminally accused.
2. Legislation creating Nunavut, a self-governing region of northern Canada, approved by 85 percent of the mostly Inuit population of that area.
3. A political accord of the ten provinces and Ottawa on the removal of interprovincial trade barriers.
4. Two formal constitutional amendments: one making New Brunswick Canada's first and only officially bicultural province, and another changing Prince Edward Island's terms of Union with Canada to provide for a fixed link to the mainland.

These changes demonstrate that the status quo can be altered without constitutional mega-politics. Both the pace of change and shock waves from initiatives are reduced, which in turn enhances prospects for further constructive negotiations.

Chrétien's Liberal Party, which declares itself to be committed to federalism under a central government with meaningful powers, achieved re-election in 1997 with a reduced majority. Two reasons, however, make it clear that the election campaign from that spring only served to reinforce the trend identified in the preceding analysis. First, the other parties with significant representation in parliament continue to be the Bloc Québécois and Reform. These parties provide rallying points for residents of Quebec and the western provinces, respectively, who seek further decentralization

\textsuperscript{20} Clarke and Kornberg (1996), however, point toward the popularity of individual politicians as important short-term forces in determining the outcome of the 1995 referendum in Quebec. Thus it is conceivable that a close decision in favor of sovereignty association could occur in a future referendum as a result of the popularity of pro-sovereignty Premier Lucien Bouchard, who stands considerably above his predecessor in office.
or even outright separation. Thus parliament will feature only one party that is close to national in scope. The second confirming point concerns the Liberal campaign itself, which consisted of spending programs intended to obtain support from key societal groups. While that is business as usual for electoral politics, in the Canadian context it reinforces the rent-seeking character of the polity prior to the next round of constitutional bargaining, whether in Quebec or the country as a whole.

Canada’s recent experiences with constitutional mega-politics do not bode well for the proliferating multi-ethnic federations noted at the outset of this study. Canada, a state with a high standard of living and virtually no history of violent political conflict, remains unable to achieve a constitutional equilibrium. Of course, if Olson’s (1982) analysis of institutional sclerosis is to be believed, Canada’s long record of stability may represent its greatest handicap in the pursuit of reform. While it is too early to be certain, the principal advantage of new states in the process of constitutional change may be the very scarcity of established political infrastructure (Weingast, 1993). In a sense, these states remain at least partially behind the ‘veil of ignorance’. Individuals are not as aware of their likely permanent position in society, so the desire to maximize the collective interest may be greater than at any point in the future (Rawls, 1971). Although interest groups can engage in speculation, they (fortunately) will lack experience with the political outcomes that result from an established constitution. Uncertainty about future standing and how to ‘work’ the system may enable interest groups to bargain more constructively. Participants from previous rounds of Canadian constitutional mega-politics, by contrast, hold established beliefs about the redistributive implications of proposals for change, which stands in the way of a lasting solution. In conclusion, the Canadian experience with constitutional reform provides an example from which much can be learned, most notably the limitations inherent in a strategy of accommodation by the national government.

REFERENCES


21. Reform’s limited but growing support elsewhere in Canada also is committed to decentralization and limited government in general.
JAMES: THE CHAIN STORE PARADOX


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