

**THE CASE FOR ASYMMETRY IN  
CANADIAN FEDERALISM**

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Consternation about asymmetry in the conduct of federal-provincial-territorial relations in Canada ebbs and flows. It has received more attention recently on account of the side-agreement on health care negotiated between

constituent units having more responsibilities than others. It is more helpful to define asymmetric practices – or asymmetry, for short – as the differential treatment of the units of the federation under the constitution or in national public policy. Let us consider, first, the Canadian constitution. In section 94 of the Constitution Act, 1867, Quebec, a civil-law province, is excluded from the uniformity-of-laws scheme under which Parliament, with the consent of the common-law provinces, can standardize their laws on property and civil rights as well as the relevant procedures in their

Pension Plan (CPP). It developed and still maintains the Quebec Pension Plan (QPP).<sup>2</sup>

The instances of asymmetry under the constitution and asymmetry in national public-policy outcomes are not arbitrary or bizarre events. On the contrary, they reflect the fundamental differences among the provinces

end of 2005. The communiqué also recognizes the province's authority over its own health-care system. For its part, the federal government agrees that other provinces can negotiate separate deals of this kind.

Is the asymmetry – the side-bar agreement that only Quebec invoked but that others might invoke later – warranted? There is no denying the fact that the minority Liberal government led by Prime Minister Martin was keen to ink a deal with the provinces and the territories, and in doing so was not in a position to drive a hard bargain with Quebec. On the other hand, there is also no denying the fact that, as stated in the communiqué, Quebec is onside in terms of the five principles of the *Canada Health Act*: universality, portability, comprehensiveness, accessibility and public administration. Further, the federal government has maintained the publicly-funded health care program in defiance of those who would prefer to see a two-tier system, meaning a private and a public one. From its standpoint, this is what matters most. After all, health is a provincial jurisdiction and, strictly speaking, there is nothing to prevent any province from abandoning the national scheme and launching a private system – on its own dime, naturally.

What warrants the resort to asymmetry? In the case of the health care agreement, the answer is gaining an acceptable agreement that includes advances in such areas as home care, a national pharmaceutical strategy, public health and the reporting practices of the national Health Council – for the cheapest asymmetrical price possible. Cheap because Quebec is doing in its own fashion more or less what Ottawa wants to see in any case.