Legislating Multiculturalism and Nationhood: The 1988 *Canadian Multiculturalism Act*

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Prominent scholars discuss the Canadian policy of multiculturalism (Kymlicka, 2012: 10; Modood, 2013: 163; Taylor, 2015: 336). But we have little historical knowledge about this policy beyond why it was introduced in 1971 (Joshee, 1995; Temlini, 2007) and later bolstered by a clause in the 1982 *Charter of Rights and Freedoms* (Uberoi, 2009). Hence, we know little, for example, about the reasons, calculations and strategies that were used in the 1980s to increase funding for this policy and to give this policy its own federal department (Abu-Laban, 1999: 471; Karim, 2002: 453). In this article I will try to increase our historical knowledge of this policy. I use new archival and elite interview data to show how the legislation that enshrined this policy of multiculturalism in law in 1988, the *Canadian Multiculturalism Act,* came into existence.

In addition to enshrining this policy in law, the act is significant in at least three ways. First, the act altered the policy of multiculturalism by empowering it to encourage all federal departments to reflect Canada's ethnic diversity among its staff and to promote respect for this diversity too. Second, the act increased oversight of the policy as it compels the

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federal government to report to Parliament annually on how the policy is "operating." Third, the *Multiculturalism Act* explicitly empowers a policy of multiculturalism to promote understandings of what Canada is, or what we might call, "Canada's identity." This is surprising because scholars claim that policies of multiculturalism are used to "repudiate" and remove popular understandings of a country (Scruton, 2014: 82; Taylor, 2015: 336), not to promote understandings of a country. Scholars also claim that policies of multiculturalism are divisive unless they are accompanied by nation-building policies that promote understandings of a country as, for example, history classes in schools can (Banting and Kymlicka, 2004: 251–52; Miller, 2008: 380). Such scholars assume that only nation-building policies promote understandings of a country but the act empowered a policy of multiculturalism to do this too. This act thus altered and increased oversight of the policy of multiculturalism and does what few scholars expect. And I will show how this act came into existence.

Cabinet documents, advice to ministers and other internal federal government records relating to the act's emergence are not yet publicly available. But the federal government gave me access to the records of the Department of Secretary of State where the act was devised and to the records of the Departments of Citizenship and Immigration Canada and Heritage.[1] Former ministers of State for Multiculturalism gave me access to their private and ministerial files.[2] Privy Council Office records were obtained through the *Access to Information Act*. When documents were unclear, I clarified them using elite interviews with former cabinet ministers and officials who helped to create this act.[3]

This evidence is used to show how the act came into existence, but this evidence is also important for other reasons. For example, scholars often claim the federal government's commitment to a policy of multiculturalism impeded its constitutional negotiations with Quebec governments and enabled the federal government to ignore "dualistic" views of Canada as a nation of "two founding peoples" (Kernerman, 2005: 59; McRoberts, 1997: 125). But the records relating to the act's emergence show the reverse. These records show that it was an act to support a policy of multiculturalism that was impeded during the Meech Lake constitutional negotiations as the federal government refused to ignore the dualistic views of Canada that members of Quebec's government had.[4] Some also claim the *Multiculturalism Act* was the result of lobbying from those claiming to represent "ethno-cultural groups" (Abu-Laban, 1999: 471; Karim 2002: 443). But no empirical evidence is used to support this empirical claim. This article provides such evidence and shows how others also helped the act to emerge. Likewise, scholars describing the *Multiculturalism Act* ignore how it aims explicitly to empower a policy of multiculturalism to promote understandings of Canada's identity (Abu-Laban and Gabriel, 2002: 110; Bloemraad, 2006: 124; Kymlicka, 1998: 48; Reitz et al.,

Abstract. In this article I use new archival and elite interview data to improve our knowledge of how the *Canadian Multiculturalism Act* came into existence. I show why some Canadians began to seek such an act, why political parties promised an act and how this act was created. The evidence in this article will also correct claims that scholars often make about this act and the policy of multiculturalism that it contains. This evidence also improves our knowledge of why the policy of multiculturalism in this legislation does what few scholars would expect. This is because scholars often claim that policies of multiculturalism are used to "repudiate" and remove understandings of a country. But my evidence helps to show why the policy of multiculturalism in this act promotes understandings of a country. Scholars also claim that policies of multiculturalism can be divisive if they are unaccompanied by nation-building policies. But my evidence helps to show why the policy of multiculturalism in this legislation was designed to be a nation-building policy.

Résumé. Je m'appuie, dans cet article, sur de nouvelles données provenant de documents d'archives et d'entretiens avec des experts politiques afin de mieux comprendre les origines de la Loi sur le multiculturalisme canadien. J'explique les raisons qui ont incité certains Canadiens à réclamer une telle loi, les motifs qui ont poussé les partis politiques à s'y engager et les circonstances entourant son adoption. Les preuves que j'apporte à l'appui corrigeront également certaines allégations que les universitaires mettent souvent de l'avant à propos de cette loi et de la politique de multiculturalisme qu'elle comporte. Elles permettent également de mieux cerner pourquoi la politique de multiculturalisme inscrite dans cette législation accomplit ce à quoi peu de universitaires s'attendraient. Ces derniers prétendent souvent que les politiques de multiculturalisme sont employées pour « désavouer » et renverser les conceptions d'un pays. Au contraire, les preuves que j'apporte aident à discerner pourquoi la politique de multiculturalisme comprise dans cette loi promeut ces connaissances. Des universitaires prétendent aussi que les politiques de multiculturalisme peuvent créer des divisions si elles ne s'accompagnent pas de politiques de construction nationale. Or, mon argumentation aide à démontrer pourquoi la politique de multiculturalisme comprise dans cette loi était conçue pour être une politique de construction nationale.

2009: 19). Yet I do not ignore this aim in the act. The evidence that I use to show how the act came into existence helps to show why the act included this aim.

I do not discuss polls that show how many favoured or opposed creating an act, or polls that show how important those wanting an act were to winning elections (Bilodeau and Kanji, 2010; Blais, 2005). I did not find such polls or references to them in my archival or elite interview data. But I did find in my data attempts to lobby the federal government to introduce a bill and evidence of how politicians responded to such lobbying. Likewise, I found strategies, compromises and unforeseen events all of which, I will show, combined to bring the act into existence.

The article examines how the act came into existence in two stages. First, I examine why some Canadians began to lobby for a multiculturalism act and why such an act was promised to these Canadians by the Liberal and the Progressive Conservative (PC) parties. Second, I will examine how a PC government created the act. I will conclude by discussing how my evidence corrects scholarly claims and helps to show why the act empowered a policy of multiculturalism to promote understandings of Canada's identity.

I Lobbying for a Multiculturalism Act and promising one

There is no evidence to suggest an act was considered by, or suggested to, the federal government when it was devising a policy of multiculturalism in 1971 (Cab Doc 864–71, 1971), or when Saskatchewan created a provincial multiculturalism act in 1974 (Haidasz, 1974).[5] In 1976, the then Clerk of the Privy Council discouraged certain reforms to the federal policy of multiculturalism by claiming that they would require an act, and thus time and effort to introduce and pass this act (Pitfield, 1976).[6] But in 1977 some who claimed to represent Canadians who were not of British or French descent, or what were often called "ethno-cultural groups," began to lobby the federal government for an act.

This lobbying began during an attempt to amend section 3b of the federal government's Bill C24, *The Immigration Act*. Section 3b referred to Canada's "federal and bilingual nature" and "representatives" of non-British/French groups wanted this section to refer to Canada's "multicultural nature" too. Indeed, such "representatives" had, since the 1960s, promoted the multicultural nature of Canada as an understanding of Canada that could include Canada's different cultural groups (UCC, 1964). Mono-cultural or bicultural understandings of Canada in which Canadians are culturally British, or British and French, had long been popular, but they excluded too many (Berger, 1966: 4; Innis, 1973: 3). The federal government seemed to agree, as cabinet records refer to speeches in which Prime Minister Trudeau said Canada was not monocultural or bicultural, but multicultural (Cab Doc 864–71, 1971). And the federal government devised a policy of multiculturalism, in part, to promote "a meaningful Canadian consciousness" that "recognize[s] the various publics of this country" (Cab Doc 440–70, 1970). The federal government thus referred to Canada's multicultural nature in speeches and in policy and not doing so in section 3b seemed inconsistent.

Section 3b could be removed, but it could also be amended to contain Canada's first statutory reference to its "multicultural nature." This would legally enshrine the understanding of Canada that many who claimed to represent ethno-cultural groups had and that the federal government had previously endorsed. Yet in cabinet committees and in Parliament, ministers refused to amend section 3b as they said that use of the term "multicultural" in law was "unprecedented." Thus, the legal implications of using this term were unclear but also potentially negative as using the term "multicultural" in Section 3b could convey the false impression that the federal government aimed to "draw immigrants from as many cultures as possible" (Cab Doc LHP 16–76, 1976; Canada, HoC, 1977). There were no such unclear and potentially negative implications attached to using the term "bilingual" in section 3b as its implications had been clarified through the *Official Languages Act*. Hence, similar legislation was necessary to clarify the

implications of using the term "multicultural" in law. Thus, Peter Bosa, chairman of the Canadian Consultative Council on Multiculturalism (CCCM), a government advisory body, wrote to Trudeau. Bosa (1977) expressed the "dismay" of the CCCM's Executive about section 3b and "strongly recommend[ed]… a statutory base for multiculturalism."

The Progressive Conservative Opposition would grant the CCCM's request to amend section 3b, thus some Privy Council Office (PCO) officials may have feared that this governmental advisory body would publicly support the opposition (Marchand, 1977). Trudeau (1977) thus wrote to the Minister of State for Multiculturalism, Norm Cafik, and said that "a statutory base" for the "multiculturalism policy" is "most interesting" and asked Cafik to "give his attention to this" idea. A multiculturalism act could thus be used to authorize statutory references to the multicultural nature of Canada. However, Cafik's reaction to Trudeau's letter provided yet another reason for those who claimed to represent ethno-cultural groups to request a multiculturalism act.

Cafik wanted to use this opportunity to create an act that would separate the policy of multiculturalism from the Department of Secretary of State (DSS) and create a Ministry of State for Multiculturalism. Such a ministry would be a "temporary" government department that would require "no more than seven hours" of parliamentary time to create (Gooding, 1978). And it would give Cafik and his officials more political and budgetary autonomy. This additional political autonomy could be used to improve the policy of multiculturalism and this additional budgetary autonomy could be used to better fund the policy. Thus an act that helped to create a department was said by Cafik's officials to be "popular" among ethno-cultural groups some of whom also argued for such an act (Gooding, 1978; CFME, 1984: 6).

Yet such a step was unpopular with the minister responsible for the DSS, John Roberts, who would lose part of his department and budget. Roberts had opposed other attempts to redistribute his responsibilities and budget (1976), and he wrote to Trudeau, to suggest that before Cafik's bill could be introduced, a "review" was needed to show how removing the policy of multiculturalism from the DSS affected policies "aimed at the development of Canadian identity" (Roberts, 1977). Promoting Canadian identity was primarily the DSS's responsibility and it was crucial at this time as the separatist Parti Quebecois had formed a government in Quebec in 1976. PCO officials advised Trudeau that this was not the time for the DSS to be distracted by a policy review (Darling, 1978). And Trudeau (1978) wrote to Roberts and Cafik saying "the time was not opportune" for a review or an act. An act was thus blocked, but lobbying for one had begun.

Lobbying thus began in 1977 because this was when some who claimed to represent ethno-cultural groups realized two reasons to seek

an act: to authorize legal references to the multicultural nature of Canada and to create a department. These two reasons were then used repeatedly over time when lobbying for an act (Gooding, 1978; CFME, 1984: 6; CEC, 1985). This lobbying was effective, as first the PC party promised an act and then the Liberal government did, too. I will now examine why these PC and Liberal promises were made.

The PC leader, Joe Clark, had discussed abolishing the policy of multiculturalism but he had altered his position by the time his minority government took office in 1979. His party activists, candidates and the new Minister of State for Multiculturalism, Steve Paproski, noted in letters that their party could not afford to ignore the votes of ethno-cultural groups especially in Ontario and Quebec (Michener et al., 1979; Paproski, 1979). Hence, in 1979 the federal government authorized a bill to include a reference to the multicultural nature of Canada in Section 3b of the *Immigration Act* discussed above (Cab Doc 747–79 MC (E), 1979). But there was insufficient time to introduce and pass this bill as Clark's government lost power after nine months. Following the 1980 election, Paproski was replaced as PC spokesman for multiculturalism by Jack Murta, and Murta states that as so many ethno-cultural group organizations were calling for a multiculturalism act (CFME, 1984: 6; SCVM, 1984) "that is what we promised them" (interview with Murta).

Such a promise was important as the Liberals had created a policy of multiculturalism and inserted section 27 into the *Charter of Rights and Freedoms* which interprets the *Charter* according to the "preservation and enhancement of the multicultural heritage of Canadians" (Uberoi, 2009). Such Liberal achievements led some in the PC party to think that much had to be promised to ethno-cultural groups if they were to vote for the PC party rather than the Liberals. Indeed, Murta was advised by some ethno-cultural group leaders and by leading PC party officials that it would not be possible "to attract the ethno-cultural groups" through "an exerted effort…just months" or "weeks before an election," as such groups were conscious of being "used before an election" (Macksymec, 1984). Liberal achievements, such as inserting section 27 into the *Charter*, helped to create a political need for the PC party to promise what the Liberals had not promised: a multiculturalism act.

The reverse was true for the Liberal Minister of State for Multiculturalism, James Fleming, as he thought his party did not need to promise an act as it had included section 27 in the *Charter*. Hence, Fleming said, "we had done enough in terms of big symbolic legal measures through the *Charter*" (interview with James Fleming). He thus submitted a cabinet document on new directions for the policy of multiculturalism that did not mention an act (Cab Doc (number unclear), 1981). And when Trudeau's Principal Secretary, Tom Axworthy (1982), asked Fleming to suggest "significant new policy initiatives," Fleming's suggestions (1982)

did not include an act. But when the PC party promised an act, Fleming's successor, David Collenette, began to worry. An election was a year away and Collenette (1983a) said in memoranda that "Liberal support among 'ethnic' voters fluctuates." Collenette also noted that "ethnic leaders … cannot deliver community votes," but "they can be a negative force if they … are hostile to a political party," thus the Liberal party had to be "attentive to the views of 'ethnic' leaders." These "ethnic leaders" wanted an act and Collenette (1983b, 1983c, 1984) wrote three letters to Trudeau about, *inter alia*, the political importance of introducing an act in Parliament so as to "act in advance" of the opposition.

The Liberal intention to create an act was announced in the 1983 Speech from the Throne, and Tom Axworthy is recorded in cabinet minutes as saying that this speech "aimed at meeting the needs of a pre-campaign" (Cab Doc 35–83 CBM, 1983). Once a bill with no additional administrative or budgetary implications was devised, "An Act Respecting Multiculturalism" (Bill C-48) was introduced on June 21, 1984. Few in the federal government expected Bill C-48 to become a law when it was introduced as there was insufficient parliamentary time to pass it before an election. Hence Collenette (1984) wrote to Trudeau saying "while there is no expectation this act will be passed before dissolution, introduction is a must for obvious political reasons." Bill C-48 was used to reassure "ethnic leaders" before an election that the Liberals could still help meet their goals. As Collenette expected, there was insufficient parliamentary time for this bill to become a law before the 1984 General Election. However, the Liberal and PC parties were now both promising an act.

To summarize, an act was first sought by those claiming to represent ethno-cultural groups in 1977. They lobbied for an act to promote the multicultural nature of Canada in law and to create a department. By the 1984 general election, the Liberal and PC parties were promising an act as they wanted to win votes. Brian Mulroney's PC party won this election and would create the act. I will now examine how this happened.

II- Creating the *Canadian Multiculturalism Act*

The process of creating what became the *Canadian Multiculturalism Act* began with a shift whereby the idea of a multiculturalism act moved from being a low priority for the new government to a high priority. Jack Murta became Mulroney's first Minister of State for Multiculturalism and he consulted ethno-cultural groups about the content of a multiculturalism act but then extended the consultation period as this "gave us political cover so that we could tackle the act when we were ready. I mean on a scale of importance between one and ten, this was a two" (Letter to Walters; Murta, 1984; interview with Murta).

But on July 31, 1985, the Canadian Ethno-Cultural Council (CEC) wrote to Mulroney. This umbrella organization received Secretary of State departmental funds and represented 36 national organizations that, in turn, represented almost 1,000 provincial and local groups across Canada, all of whom it would be crucial to influence during elections. The CEC was also important at other stages of creating the act, but here the CEC asked for the federal government to provide "a clearer sense of its overall multiculturalism policy … especially through a … far-reaching multiculturalism act" (CEC, 1985). It is difficult to say that this CEC letter caused Mulroney to make creating an act a higher priority, but it is also difficult to find another reason why the Secretary of State immediately began to receive advice to consider some "combination of the citizenship act and" the "proposed multiculturalism act into one piece of legislation" (Bowie, 1985; Rabinovitch, 1985). Such a combination was inconsistent with Murta extending the consultation period; it did not happen. But when Mulroney reorganized his cabinet on August 20, 1985, Murta was replaced by Otto Jelinek (1986) who was immediately given a mandate to bring forward a "cabinet document and strategy on multiculturalism." Within 20 days of the CEC's letter asking for a clearer strategy that included details of a multiculturalism act, the new Minister of State for Multiculturalism was instructed to give priority to such a strategy.

Next, a decision had to be taken about what a multiculturalism act would aim to achieve. Like Cafik, Jelinek (1986) wanted to use legislation to create a department but the Clerk of the Privy Council, Paul Tellier, opposed Jelinek. Tellier wrote to Mulroney saying, *inter alia*, "a demographically specialized department … would lead to demands for similar treatment from other groups (e.g., youth, women, the elderly)," and would "raise expectations for new programs and funding" that could not be met (Tellier, 1986). Mulroney (1986a) thus advised Jelinek to avoid "reorganization of structures" in his strategy. And while the strategy that Jelinek sent to cabinet appears to be lost, a reaction to it from PCO officials survives. It says that Jelinek still requested structural changes and that "ministers should be aware" that ethno-cultural groups might not think that Jelinek's proposals are "significant" (New Multiculturalism Strategy, 1986).[7] Jelinek had seemingly ignored Mulroney and Tellier;[8] his responsibility for the policy of multiculturalism was removed a month later.

Mulroney reorganized his cabinet and the new Secretary of State and long-term advocate of multiculturalism, David Crombie, was given responsibility for the policy of multiculturalism. In his letter of appointment, Mulroney (1986b) told Crombie, "before launching any consultations touching on the current organization of the government … I would ask that you confirm your intentions with me." Crombie thus needed permission to use an act to create a department and, like Jelinek, he was unlikely to get it. Thus, he proposed a different type of act. Crombie (1987) had long

claimed that Canada was defined by multiculturalism, bilingualism and citizenship or what he sometimes called the "three-legged stool." He proposed an act to promote his understanding of Canada and the three-legged stool. But this would entail a statutory reference to bilingualism and some in the federal government feared the impact of such a reference on the Meech Lake Accord. And to understand this fear, it is necessary to understand the accord.

The Meech Lake Accord aimed to amend the 1982 *Constitution Act* which patriated the constitution and created the *Charter of Rights and Freedoms* but without the approval of Quebec's government or national assembly (McRoberts, 1997: 162). Thus Quebec premier, René Lévesque, rejected the legitimacy of the 1982 *Constitution Act*, yet his successor, Liberal Robert Bourassa, was willing to recognize it if it were altered. But the federal minister in charge of the accord, Lowell Murray, noted that Bourassa was under pressure from "the nationalist wing" of his cabinet (FPRO, 1986). This wing wanted the "equality" of Canada's "two founding peoples" recognized in the accord but this would exclude ethno-cultural groups and Aboriginal peoples. Thus the federal government could only recognize Canadian duality in the accord by referring to Canada's bilingualism which was subjecting Bourassa to accusations "of token recognition" and "charges … of weakness" (FPRO, 1986). Bourassa could withstand this criticism if it was not too extensive, but Crombie's proposed bill could increase such criticism by describing Canadian duality, yet again, not in terms of "two founding peoples" but in terms of bilingualism. This could create a "paralyzing linkage" (FPRO, 1986) as Bourassa could be forced to criticize the description of Canadian dualism in Crombie's bill to avoid further charges of weakness. As the accord had the same description of dualism, Bourassa would have to criticize that, too, and agreement over the accord could unravel. Murray's officials in the Federal Provincial Relations Office (FPRO) feared this scenario and blocked a reference to bilingualism in Crombie's act; thus as one of Crombie's officials says, "automatically, one leg of Crombie's stool was gone" (interview with Dale Thompson).

The "three-legged stool" bill was thus blocked, but legislation could still be used to enshrine two legs of the stool and promote multiculturalism and citizenship as defining features of Canada. Yet this, ironically, would raise questions about how Canada could be defined without referring to francophones. Another option was to introduce a multiculturalism act that was similar to the one that the Liberals introduced before the election. But many might then ask why the federal government had consulted for two years only to introduce legislation similar to that introduced by the last government. Likewise, not creating an act would be difficult to explain as the Assistant Under-Secretary of State for Multiculturalism noted: "the government's performance will be measured in the House as

well as by the community in the manner in which it has concretely delivered on its expectations" (Khrulak, 1986). Crombie had to introduce an act, and thus he decided it would aim to promote just one leg of the stool. The act would promote multiculturalism as *a* defining feature of Canada (Sarkar, 1987).

Once the aim of a multiculturalism act was decided, a bill was drafted by a team of Crombie's officials in the DSS (Bisson, 1987).[9] This was strange, as departmental teams usually devised the policy underpinning a bill that cabinet had to approve and then drafters at the Department of Justice (DOJ) drafted a bill. But DSS officials presented a draft bill to the Social Development (SD) Cabinet Committee and DSS officials could draft this bill as it had few legal technicalities, as a DOJ official confirms (Cab Doc 8-0368-87 MC (01), 1987; interview with Mary Dawson). Indeed, presenting a bill early might have seemed necessary, as an act that promotes multiculturalism as a defining feature of Canada was unusual so there was a need to show that it was possible.

However, DOJ officials did not think a bill should be used to "legislate press releases" which is how the Assistant Deputy Minister for Public Law described the bill (interview with Mary Dawson). As DOJ officials could oppose the bill and encourage PCO officials to do so too, the DSS Deputy Minister Jean Fournier says, "I turned to Frank Iacobucci" (interview with Jean Fournier). Iacobucci later became a Supreme Court judge, but at the time Iacobucci was the DOJ's deputy minister and if he supported the bill his staff in the DOJ were more likely to do so, too. A letter from Fournier (1987) to a senior PCO official thus said that Iacobucci would "address any questions" about the legal implications of the bill at a meeting that Fournier had organized. Another PCO official notes that the "bigwig," Iacobucci, would "virtually co-chair" this meeting about the bill (Johnson, 1987). Iacobucci thus probably helped to reduce DOJ opposition, but what was in the draft bill?

The DSS team and Crombie explained the bill in the cabinet submission mentioned above. Thus they explained that the short name of the bill would be the "*Canadian Multiculturalism Act,*" as "the word 'Canadian' in the title underlines the objective of fostering a distinctively Canadian form of an evolving multicultural nation". It also "signifies that multiculturalism is a distinctively Canadian value… central to our identity" (Cab Doc 8-0368-87 MC (01), 1987). Likewise, the preamble of the bill referred, *inter alia*, to "other relevant federal legislation and the Constitution" to show "that multiculturalism is an integral element of the nation's identity." Clearly, the title and preamble of the bill did not have to mean what the cabinet memorandum said; it is unclear why this wording was not more precise.

But the bill's "fundamental focus" was more precise and it was stated in the first aim of the policy of multiculturalism in the bill: "to promote the

understanding that multiculturalism encompasses the cultural and racial origins" of all Canadians. This phraseology avoids excluding any Canadians in the second aim of the policy of multiculturalism in the bill: to promote multiculturalism as "a basic element of the Canadian heritage and identity." This aim was said to have two purposes:

> First to convey a strong sense of legitimacy to those individuals and communities who feel and/or understand that either their culture or their race has limited their role and acceptance in Canadian society; second, to convey to all Canadians that their diversity contributed to the nation's history, is a contemporary reality and will be important to the continuing evolution of a distinct and dynamic nation. (Cab Doc 8-0368-87 MC (01), 1987)

Promoting multiculturalism as a basic element of Canadian heritage and identity was thus first a statement about Canada's identity that would include those who felt excluded. Second, it was a statement for "all Canadians" to accept that their diversity defined Canada's past, present and future. Indeed, such diversity was said to be an "invaluable resource" and the policy of multiculturalism in the bill states a need to "preserve" and "respect" it. The bill also states a need to obtain "the understanding" that arises from interaction with those who are different while avoiding discriminating against them (Cab Doc 8-0368-87 MC (01), 1987).

To improve "accountability" an annual report on the "implementation of the Policy" had to be submitted to Parliament (Cab Doc 8-0368-87 MC (01), 1987). But the policy embodied in the bill would also help to "ensure" all Canadians, including minorities, can gain employment in federal departments and agencies to aid employment equity (Cab Doc 8-0368-87 MC (01), 1987). This was also said to aid "nation-building" as inclusion "in the institutional life of the nation" strengthens the "sense" among minorities "of being an integral component of the Canadian nation" and exclusion from these institutions did the opposite. Indeed, those drafting the bill conceptualized federal institutions as part of how Canada is often understood by Canadians. Thus it was said that minorities were more likely to feel part of how Canada is often understood if these institutions "reflect… the nation's diversity" (Cab Doc 8-0368-87 MC (01), 1987).

The bill thus focused, in part, on institutions and nationhood. Hence, some may claim that those who wrote the bill saw Canada as a civic nation that is defined by laws, citizenship, institutions and other features that are like parks and roads as they can be shared by Canadians regardless of their ethnicity (Parekh, 1994: 502; Smith, 2001: 39). But this is inaccurate, as while federal institutions were thought to be part of how Canada is often understood, these institutions were not thought to be shared regardless of ethnicity. Instead, it was thought that these institutions should reflect the

ethnicities of different Canadians so as to show they are all part of Canada. Likewise, the bill did not "repudiate" or reject existing popular understandings of Canada (Scruton, 2014: 82; Taylor, 2015: 336). Instead, those designing the bill implicitly endorsed existing understandings of Canada that focused on federal institutions. The bill's designers did this, we have seen, to argue that minorities should feel part of the federal institutions that often comprise how Canada is understood.

The bill was also deliberately designed to generate few objections in cabinet committee; this can be shown in two ways. First, the bill was drafted so that the minister in charge of the policy of multiculturalism could "encourage" but not "compel" those running other federal institutions to fulfil their responsibilities under the act (interview with Dale Thompson). This was done to ensure that those running these federal institutions did not think their authority was being usurped as they might then object to the bill (Cab Doc 8-0368-87 MC (01), 1987).

Second, those who drafted the bill did not describe multiculturalism in the bill as the CEC wanted, as doing so could generate opposition in cabinet. The CEC had noted how the Meech Lake Accord required the *Constitution Act* as a whole to be interpreted according to Canada's bilingual nature, while section 27 required only the *Charter of Rights and Freedoms* to be interpreted according to Canada's multicultural nature. The CEC feared this would reinforce the idea that those of British and French descent were more important to defining Canada than others,[10] thus the CEC sought to reduce the appearance of a hierarchy by asking for multiculturalism to be described in the bill as bilingualism had been in the accord, that is, as a "fundamental characteristic" of Canada (CEC, 1988a).[11] However, more parity between multiculturalism and dualism logically meant reducing the salience of dualism, and Bourassa, we have seen, needed the opposite. To placate Bourassa, ministers like Murray, and officials negotiating the accord, could oppose this bill just as they had the "three-legged stool" one. Thus the DSS team "reached for the thesaurus and played" with different ways of saying multiculturalism is a fundamental characteristic of Canada "and … settled" on "basic element" to minimize opposition (Draft Bill, 1987; interview with Thompson).

Such precaution helped the SD Cabinet Committee to approve the bill without recording any concerns (Cab Doc 8-0368-87 CR (01), 1987). The Priorities and Planning (P&P) Cabinet Committee did the same (Cab Doc 8-0368-87 RD (01) (C), 1987).[12] Indeed, the P&P committee had the same authority to approve a bill as the cabinet had and it approved this bill as the DSS team made it seem uncontroversial. Thus Tellier advised Mulroney that the bill was "persuasive" and Mulroney need not be "concerned with … specifics" (Tellier, 1987).

On December 1 1987, the bill was introduced in Parliament as Bill C-93, the *Canadian Multiculturalism Act*. But two reasons emerged to alter

the bill. The first was that without changes, it was not clear if C-93 would gain parliamentary approval. This is because while Mulroney had a large majority in the House of Commons, parliamentary time before an election was scarce. The legislative committee scrutinizing C-93 knew this and some of its members wanted the act to create a department and a commissioner to enforce the act. Without such provisions, the New Democratic Party (NDP) spokesman for multiculturalism, Ernest Epp was unsure whether "this Bill should die on the order paper as Bill C-48 did four years ago" (Committee, 12.4.88). Thus he sought more time for witnesses to give evidence, seemingly to reduce the time available to pass the bill (Committee, 12.4.88). The second reason to alter the bill was that the CEC (1988b) warned Mulroney of the electoral implications of not doing so. They thus said the bill would "be hard to explain … at the next election" and there could well have been a difficulty as the Liberals (1988) were promising a "real multiculturalism act." Concessions were thus made to the bill's critics.

The critics were vocal. Thus the funding that was available for the policy of multiculturalism in the bill was criticized in standing committee hearings, consultations and in the media (Consultations, 1988; Hearings, 1987; Press Reaction, 1987–8). Crombie had said in cabinet that greater funding was not required to pass the bill, however, later he sought an extra $62 million over five years and said it would "ensure passage of the Bill" (Unnamed, PCO, 1988a; Cab Doc 6-0105-88 MC (01), 1988). Ministers were advised to "consider" Crombie's request "in the context of all other priority funding requests" (Cab Doc 6-015-88 MC (01), 1988); Unnamed, PCO, 1988a). Yet when Crombie resigned for reasons unrelated to the bill,[13] the new Minister of State for Multiculturalism, Gerry Weiner, wrote to Deputy Prime Minister Don Mazankowski, who was also the Government House Leader, responsible for ensuring that legislation passed in the House of Commons. Weiner said the funding would "facilitate acceptance of the act," and the increase was approved (Unnamed, PCO, 1988a).

Similarly section 3 (2) was altered. This section said federal institutions "should" ensure all Canadians have equal opportunities and "promote policies, programs and practices" that "enhance respect for the diversity of members of Canadian Society…". But saying such institutions "should" ensure that Canadians have equal opportunities, promote such policies, programs and practices does not compel these institutions to do anything. This is because the word "should" in this section makes it prudential or morally desirable that federal institutions engage in such activity. Thus to compel federal institutions, the CEC (1988b) wanted the "should" in this section to become "shall." Weiner was "anxious to make some minor wording concessions to the CEC" to win their support and thus, unsurprisingly, this change was made when the bill was in legislative committee (Paget, 1988).

However, the CEC and others still wanted multiculturalism to be described in the act as bilingualism was described in the accord, that is, as a "fundamental characteristic" of Canada. Bourassa had now endorsed the accord, yet FPRO officials remained fearful of "paralleling" it (Paget, 1988). FPRO officials would thus only compromise so that multiculturalism in the bill's preamble and section 31b went from being described as a "basic element" to a "fundamental element" of Canada's identity, yet as one PCO official noted:

> Mr Mazankowski has himself been lobbied by the Canadian Ethno-Cultural Council … Despite the … increase in multicultural funding, the Act is still seen as largely symbolic and without this amendment, some Secretary of State Officials view its passage as uncertain.. (O'Hara, 1988a)

The Liberal Opposition indicated that they would "escalate the debate on this issue during 3rd Reading." And Weiner was "recommending" use of the term 'fundamental characteristic' to Lowell Murray who was the minister in charge of the accord, and to Murray's officials too (OMM 1988, interviews with Clippingdale and Murray). But Weiner could be ignored by Murray and his officials just as Crombie had been over the "three-legged stool" bill. However, Murray and his officials could not ignore Deputy Prime Minister Mazankowski who again intervened to ensure passage of the bill: "following discussions between Mr Mazankowski and Senator Murray an agreement was reached to … introduce an amendment to the preamble and Clause 3[1]b of the *Multiculturalism Act* which would describe multiculturalism as a 'fundamental characteristic' rather than a 'fundamental element'" (O'Hara, 1988b; Unnamed PCO, 1988b).

This was enough for the CEC to support the bill and urge all party support for it which made it difficult for MPs to vote against it. Many MPs criticized the bill but no MP voted against it (Canada, HoC, 1988). Thus, at third reading, the House of Commons unanimously voted in favour of the bill. A day later the bill received its second reading in the Senate and senators did not amend it at committee stage. At third reading in the Senate, the bill was supported unanimously.

C-93 became law and the Department for Multiculturalism and Citizenship emerged two months later. Some may thus wonder if there was a deal in which the federal government offered a department to parliamentarians who were criticizing bill C-93 in exchange for parliamentary support for bill C-93. But there is no evidence of this. Such a deal also seems unlikely as it would have required Mulroney to offer a department before C-93 became an act. But even 25 days after C-93 became an act, the clerk of the Privy Council, Tellier, seems to have written on a memo that was sent to him that Mulroney was unconvinced about creating a

department (D'Ombrain, 1988a). Equally, until Mulroney wanted a department, Tellier was powerful enough to block any deal offering one as Tellier continued to oppose creating a department. Thus, just before a department was announced, Tellier wrote "Excellent memo" on a note from a PCO colleague that argued a department was "profoundly ill-advised" (D'Ombrain, 1988b). But Mulroney could overrule Tellier. And as Mulroney was unconvinced about a department before C-93 became a law, he probably overruled Tellier after C-93 became a law as the Liberals (1988) were offering a department and election day was near. It is unlikely that a department was offered in exchange for C-93 receiving parliamentary approval.

Parliamentary approval meant the *Multiculturalism Act* came into existence, and we can summarize how this happened under Mulroney by recalling that creating an act was not a high priority for Mulroney's government until the CEC helped to make it one. The aims of a bill were then decided but only after PCO and FPRO officials prevented bills that aimed to create a department or to legally enshrine what Crombie called the "three-legged stool." DSS officials thus drafted a bill that aimed to promote multiculturalism as a feature that defines Canada, a bill that few in cabinet disagreed with. But once the bill was introduced, concessions were made to produce the multiculturalism act that came into existence more than a decade after discussions about such an act first began.

III Conclusion

In this article I have used new archival and elite interview data to improve our knowledge of how the *Canadian Multiculturalism Act* came into existence. Thus it is now clearer why some began to lobby for an act, why political parties promised an act and how the act was created. But, as I noted in the introduction, the evidence that I have used to show how the act emerged is also important for scholars who make a number of claims. Thus, some scholars claim that constitutional negotiations with Quebec provincial governments were impeded by the federal government's commitment to a policy of multiculturalism, which also led to dualistic views of Canada being ignored (Kernerman, 2005: 59; McRoberts, 1997: 125). But I have shown evidence of the reverse. It was the "three-legged stool" bill, and thus legislation to support, *inter alia*, a policy of multiculturalism that was impeded by the Meech Lake constitutional negotiations. This is because FPRO officials would not ignore the dualistic ideas of Canada that were held by certain members of Bourassa's cabinet.

Similarly, my evidence is significant for those who, as I noted earlier, claim that lobbying by those claiming to represent ethno-cultural groups enabled the act to emerge, as they provide no evidence to support their claim (Abu-Laban, 1999: 471; Karim 2002: 443). I, however, have

provided evidence to support and calibrate their claim, showing how those claiming to represent ethno-cultural groups obtained a commitment from the PC and Liberal parties to create an act before the 1984 general election. I have also shown how the CEC helped to make an act a high priority for Mulroney's government and how the CEC helped to alter the bill that became the *Multiculturalism Act*. But I also showed how, in 1977, those claiming to represent ethno-cultural groups were unable to get a reference to the multicultural nature of Canada included into a law. Lobbying by those claiming to represent ethno-cultural groups was thus not always successful, and the efforts of others also helped the act to emerge. Thus the emergence of the act was also aided both by Crombie's realizing that a bill could be opposed if it was used to create a department and by his officials drafting a bill that was hard to oppose in cabinet. The efforts of politicians and DSS officials accompanied the efforts of those claiming to represent ethno-cultural groups to help to create this legislation.

I also noted earlier that many scholars who discuss the act ignore how it aims to promote understandings of what Canada is (Abu-Laban and Gabriel, 2002: 110; Bloemraad, 2006: 124; Kymlicka, 1998: 48; Reitz et al., 2009: 19). My evidence helps to show why the act acquired this aim as it shows why Crombie decided the act would aim to promote multiculturalism as a feature of Canada. Likewise, my evidence showed that those drafting the act thought that federal institutions were part of popular understandings of Canada. And if these institutions employed more minorities, this would help minorities to feel part of what is often thought to define Canada. With this evidence in mind, promoting understandings of what Canada is seems like a larger part of what the act was designed to achieve than scholars who discuss this act often think, or they would not ignore this aspect of the act.

This article also makes the following three assumptions by scholars seem questionable. First, scholars who claim that policies of multiculturalism can be divisive without nation-building policies assume that the two types of policies have different uses (Banting and Kymlicka, 2004: 251; Miller, 2008: 380). I have shown why the act gave a policy of multiculturalism a use that nation-building policies often have, which is to promote understandings of a country. Second, scholars who claim that policies of multiculturalism are used to "repudiate" and reject understandings of a country assume, and claim, that some are using these policies to discourage understandings of a country that already exist (Scruton, 2014: 82; Taylor, 2015: 336). But the act's policy of multiculturalism was designed, in part, to help to include cultural minorities in existing understandings of Canada that focus on federal institutions. Third, both sets of scholars I have just referred to advocate countries being understood in ways that include cultural minorities as this helps such minorities to not feel, or be treated, like outsiders.[14] But these scholars assume that policies of

multiculturalism are not used to achieve this goal, yet I have shown that the policy of multiculturalism in the act was designed, in part, for this purpose. These three assumptions about policies of multiculturalism may be plausible in general. But my evidence suggests that these assumptions are questionable in relation to the Canadian policy of multiculturalism and this is another way in which this article has, I hope, improved our knowledge of this policy.

Notes

1 Umit Kiziltan and his staff at Citizenship and Immigration Canada facilitated the security clearance necessary to examine files from the departments mentioned in the text that are stored in Library and Archives Canada.
2 The ministerial files belonged to Jack Murta, David Collenette, James Fleming, Gerry Weiner and David Crombie.
3 The interviews were with the five ministers listed above, one former minister for Federal Provincial Relations (Lowell Murray), six former officials (Kerry Johnston, Richard Clippingdale, Dale Thomson, Jean Fournier and Mary Dawson) and one political staffer (Ron Doerring).
4 There is already excellent work that discusses how ethno-cultural groups objected to the Meech Lake Accord (Abu-Laban and Nieguth, 2000; James, 2006) but it does not show how the accord helped to prevent an attempt to honour a commitment to create a multiculturalism act.
5 Other provinces introduced legislation much later.
6 There is a single *later* reference to a proposal in the PC party about an act in 1974 but I am unable to verify if this proposal existed or how significant it was. I doubt, however, that it was a significant proposal as an act was not something that the party campaigned on in 1979 when Joe Clark also seems to have entertained the idea of abolishing the policy of multiculturalism altogether, not augmenting it with an act (Paproski, 1979).
7 I can find no evidence to support or refute whether ethno-cultural groups supported or opposed Jelinek's proposals.
8 While it may be rare, Savoie (1999: 129) concurs that ministers sometimes conflict with senior PCO officials and can even convince prime ministers to support them when doing so.
9 This team was primarily comprised of Richard Clippingdale, Kerry Johnston and Dale Thompson.
10 See CEC (1984) and note that section 16 of the accord did not correct this constitutional hierarchy.
11 This was the CEC's view but Kallen (1989) identifies a much more problematic "pecking order."
12 Certain very minor changes were made to sections 31a, 31j and 51e in a cabinet committee meeting on 24 November, but these seemingly related only to phraseology and the major changes were made, as the reader will see, after the bill was published (Cab-Doc 5-0402-87 RD (01) (C) (Bill)
13 Crombie and his chief of staff both say that when Crombie ran against Mulroney for the leadership and lost, Crombie wanted to step down. But Crombie thought it might look like he was a sore loser. However, he had long before decided to step down just before the 1988 election, and thus did so (interviews with Crombie and Ron Doerring).
14 Scruton (2014: 82) is a well-known conservative nationalist and it may seem odd that he claims a country should be understood in ways that include minorities as he did not say this in the 1980s. Scruton's position has clearly altered on this issue as the reference I use indicates.

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