

BLUE STORM: THE RISE AND FALL OF JASON KENNEY

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Albertans and the Fair Deal

Jared J. Wesley

For generations, many Albertans have longed for a fairer deal in Confederation. The notion that the province and its people contribute more to the rest of Canada than they get in return is engrained in Alberta's political culture.¹ The sentiment predates the oil booms of the late-twentieth century, tracing its roots to the farmers' and Progressive movements decades earlier. The common thread from then to now—western alienation—has taken several forms. These have ranged from calls that the “West Wants In,” bolstering Alberta's influence over national decision-making, to the “West Wants Out,” manifest most recently in the Wexit movement. In the middle stands calls for the West to be left alone.

Thus, in many ways, the United Conservative Party (UCP)'s push for a “Fair Deal” was nothing new. The party built its successful 2019 provincial election campaign on the notion of “fighting back” to secure better terms for Alberta in Confederation. Aimed squarely at the Government of Canada and oil and gas opponents in British Columbia and Quebec, this edgier form of western alienation underpinned much of the UCP's popular “jobs, economy, pipelines” mantra. In much the same way early Progressives had pushed for lower freight rates and the removal of tariffs on American goods a century ago, the UCP's Fair Deal would involve rolling back newly imposed federal laws that appear to block Alberta's access to tidewater for its bitumen and increasing the province's share of federal transfers. The Fair Deal also aimed to position the new premier as a guardian of Alberta's interests on the national and international stage—a

timeworn strategy for boosting the popularity of a government and externalizing its domestic opposition.²

The Fair Deal is distinct from other attempts to secure Alberta's future, however. Discussed in this chapter, it is far more provocative and, ultimately, more risky.

This chapter traces the evolution of the Fair Deal concept from its genesis in the "Alberta Agenda" advanced by conservatives in 2001 through the constitutional referendum on equalization twenty years later. This history reveals how populist approaches to western alienation took on a more aggressive tone that is increasingly out of step with public opinion. More concerning, strategic missteps in rolling out the Fair Deal process have placed not just the government's survival, but Alberta's position in Confederation, at greater risk than before the UCP government launched the initiative in 2019. Originally designed to quell separatism and bolster Alberta autonomy, the Fair Deal gamble may end up setting Alberta backwards on both counts. In this sense, the Fair Deal is better considered part of the UCP's failed fight back strategy³ than as a coherent policy package to reform the terms of Confederation (see chapters from Clark and Rioux for other elements). And as a piece of strategy, it has placed Alberta in a precarious position of making unrealistic demands backed up by unpopular ultimatums. According to our Viewpoint Alberta survey data, the next UCP leader would do well to focus less on building Fair Deal firewalls around the province and more on building bridges with the rest of the country.

Context

The federal election in October 2019 marked a turning point in the Alberta government's approach to federalism and intergovernmental relations. Despite receiving more votes, the Conservative Party of Canada had failed to win more seats than their Liberal opponent. The Conservative performance was buoyed by massive victories in Western Canada—particularly in Alberta, where the party's candidates claimed thirty-three of thirty-four seats and 69 per cent of the popular vote. Including the lone New Democrat, Albertans had sent every one of its MPs to the opposition benches, leaving the province shut out of the Liberal caucus and cabinet.

These losses were compounded by the fact that Prime Minister Justin Trudeau had retained power. Son of the architect of the National Energy

Program, and himself the champion of the carbon tax, coastal tanker ban (Bill C-48), and the so-called no more pipelines law (Bill C-69), Trudeau embodied the Laurentian elitism that animated western alienation for several generations.

To say many Albertans were upset at the election result would be an understatement. Support for separatism suddenly spiked in the province, with up to one-third of the population abandoning the conventional call “the West wants in” for a more radical alternative.⁴ The rise of separatist sentiment in the province provided both a risk and an opportunity for the UCP. Fault lines between federalists and separatists within the party’s base were threatening to widen, potentially undoing the successes of the provincial “unite the right” movement. On the other hand, with enough animosity toward the federal government and the rest of Canada, the time could be ripe to build a “firewall” around Alberta, strengthening the control of the provincial government and corporate elites over Alberta’s economy and society.

Known as the “Alberta Agenda,” the so-called firewall measures were designed by Alberta conservatives including Stephen Harper, who proposed them in an open letter to then-Premier Ralph Klein in 2001. At the time, the authors were upset at perceived federal encroachment into areas of provincial responsibility, including the environment (Kyoto Protocol) and firearms (gun registry). They placed these alongside perennial concerns with federal agencies, funding, and programs (e.g., the Canadian Wheat Board, health and social transfers, and Employment Insurance). Their solution involved withdrawing Alberta from national institutions like the Canada Pension Plan (CPP) and Canada Revenue Agency (CRA), and establishing an Alberta Provincial Police Force (APPF) to replace the Royal Canadian Mounted Police (RCMP) (see also King’s chapter). These measures would have the dual effect of asserting Alberta’s autonomy and sending a message to the rest of Canada that the province was not to be taken for granted. The letter was persuasive enough to prompt Klein to strike a MLA Committee to tour the province listening to Albertans’ thoughts about the province’s place in Confederation.

Many experts and the public roundly panned the firewall approach, and the Klein government abandoned the measures at the urging of the MLA Committee in their 2004 report. The policy ideas remained alive

in conservative policy circles, however, and became the centrepiece of the Kenney government's fight back approach to secure a Fair Deal for Alberta. At least one of the Alberta Agenda authors—Ted Morton—would be cited as advisor to the Kenney government in crafting the Fair Deal mandate. At least one other—Ken Boessenkool—would emerge as one of the harshest critics of some of the tactics employed to secure Alberta's autonomy.

No doubt knowing the relative unpopularity of the firewall measures, the UCP opted not to lead with them as part of their Fair Deal strategy. Instead of focusing on measures that were entirely within the purview of the provincial government, they chose to frontload other elements of the fight back plan. If those proposals were rejected by the rest of Canada, Premier Kenney could then propose the broader Alberta Agenda as a retaliatory response.

Piecing together public remarks from the premier and his allies, the following Fair Deal blueprint emerges. Here is a brief synopsis, followed by a more detailed description of each stage:

- 1) The government strikes a public panel to offer recommendations on whether to incorporate a series of pre-determined elements of a Fair Deal package. Some of these components would be demands made to the rest of Canada, while others would be used as ultimatums should those demands go unsatisfied.

- 2) A constitutional referendum on removing equalization from the constitution would be the catalyst to elevate the Fair Deal to the top of the public agenda and obligate other governments to negotiate with Alberta on its terms.

- 3) Forced to the bargaining table, the federal government and provincial governments would receive Alberta's list of demands. These would include reforms to "discriminatory" federal laws and policies held responsible for landlocking Alberta's oil, plus an enriching of the fiscal stabilization fund. Should the rest of Canada (namely, the federal government) refuse to accede to these demands, Alberta would respond by building a firewall around the province.

This final step appeared to be the ultimate goal of the UCP government. Yet, as discussed later in this chapter, there are heavy risks associated

with the previous two stages that put the entire Fair Deal initiative, and Alberta's own autonomy, in jeopardy.

Stage 1: A Panel and Report

Premier Kenney summarized the mood of Albertans within days of the 2019 federal election. "People have a bloody right to be frustrated in this province," he said in a speech just hours after the Trudeau Liberals secured a minority government. "We darn well better get to the bottom of that frustration. And that's what we intend to do."⁵

To do so, Kenney struck a Fair Deal Panel to travel the province listening to Albertans' grievances about their place in Canada and consulting with experts on how best to improve Alberta's standing in Confederation. In his mandate letter to the panel, the premier outlined the context and framed the purpose of its work:

Albertans have an unprecedented level of frustration with their place in the federation. Five years of economic decline and stagnation have been deepened and prolonged by policies emanating from the federal and some other provincial governments, many of which have sought to landlock Alberta's vast energy resources. This, plus policies that interfere in areas of provincial jurisdiction, are seen by many Albertans as fundamentally unfair, particularly given the province's enormous contribution to the Canadian economy, and to fiscal federalism.

Recent public opinion surveys suggest that as many as one third of Albertans support the concept of separating from the Canadian federation, and that three quarters of Albertans understand or sympathise with this sentiment. Many Albertans who indicate support for federalism are demanding significant reforms that will allow the province to develop its resources, and play a larger role in the federation, commensurate with the size of its economy and contribution to the rest of Canada.

Our Viewpoint Alberta research aligned with the premier's comments. According to our survey conducted immediately following the 2019 federal election:

- 76 per cent of Albertans felt their province received less than its fair share of federal programs and transfers;
- 75 per cent felt that Alberta was not treated with the respect it deserved in Canada; and
- 70 per cent felt that the federal government treated Alberta worse than other provinces.⁶

When asked which emotion best captured their attitude about Alberta's position in Canada within the next decade, over half (51 per cent) replied "angry." A full 84 per cent felt that "the number of Albertans who are angry about Ottawa's treatment of Alberta is increasing." Most strikingly, 29 per cent of Albertans agreed with the notion that Alberta should "separate from Canada and form an independent country." This was the negatively charged atmosphere in which the Fair Deal Panel conducted its work.

Unlike the MLA Committee on Strengthening Alberta's Role in Confederation established by Ralph Klein in 2004, which included nine elected members of the government caucus, the Fair Deal Panel consisted of three government MLAs and six prominent Albertans. The Fair Deal MLAs were drawn from the populist and libertarian end of the UCP caucus, two of whom would go on, after the panel report was released, to co-author their own "Freedom Alberta" manifesto designed to usurp federal jurisdiction over the province (see Stewart chapter).⁷

The Fair Deal Panel chair had deep, nonpartisan experience in inter-governmental relations, having served as deputy minister at both the provincial and federal levels. Joining her were two sons of former Alberta premiers, a former regional Chief for the Assembly of First Nations, a former provincial Progressive Conservative cabinet minister, and a law professor from the University of Alberta. Coming from diverse backgrounds, all five of these members had close ties to the energy and business sectors in the province. This aligned with the primary mandate of the panel, which was to "look at how best to advance the province's vital economic interests, such as the construction of energy pipelines."

Unlike the 2004 MLA Committee mandate, which gave the investigators relatively free rein to scope and identify possible remedies, the Fair Deal Panel's instructions included developing recommendations related to a series of nine specific policy actions discussed below.

The government tasked the panel with hosting at least seven town hall meetings across Alberta (they held twenty-five), and with allowing all Albertans the opportunity to provide feedback through their MLAs, surveys (over 40,000 responded), and traditional written submissions (over 4,000). The panel was also permitted to conduct its own public opinion research and consult with experts.⁸

In releasing its report in May 2020, the Fair Deal Panel weighed in on the nine initial policy actions included in the mandate letter, along with several others (see Table 5.1). Many of these measures align with those first proposed in the Alberta Agenda and recommendations made in the MLA Committee's Report in 2004. This suggests that the government took into account these earlier initiatives when forming the Fair Deal Panel mandate, and the panel considered them when drafting their final report.

Taken together, these various policies may be grouped under the following approaches:

- autonomist (i.e., withdrawing Alberta from pan-Canadian institutions and/or establishing Alberta-specific institutions);
- bridge-building (i.e., establishing greater influence for Alberta within provincial, federal, or international affairs, or working with other jurisdictions to achieve Alberta's objectives);
- rebalancing (i.e., shifting resources or power within Confederation to Alberta's advantage);
- fighting back (i.e., challenging national institutions or practices to stand up for Alberta); and
- other (i.e., miscellaneous measures to strengthen Alberta).

Not unlike the MLA Committee decades earlier, the Fair Deal Panel rejected a number of prominent policy measures proposed by conservatives

Table 5.1. Elements of the Fair Deal and Earlier Initiatives

	Alberta Agenda (2001)	MLA Report (2004)	Fair Deal Mandate (2020)	Fair Deal Report (2021)	Government Response (2021)
Autonomist Approach					
establishing a provincial revenue agency	✓	✗	✓	✗	?
creating an Alberta Pension Plan	✓	✗	✓	✓*	?
establishing a provincial police force	✓	?	✓	✓	?
appointing a chief firearms officer for Alberta			✓	✓	✓
establishing a formalized provincial constitution			✓	✓	
opting out of federal cost share programs with full compensation		?	✓	✓	
seeking an exchange of tax points for federal health and social transfer cash	✓	✓	✓	✗	✓
supporting Quebec's bid to collect federal and provincial taxes				✓	
Bridge-Building Approach					
reducing internal trade barriers				✓	✓
advancing transportation corridors				✓	✓
working with other jurisdictions to democratize the Senate	✓	✓		✓	✓
working with others re: market-based approaches to environmental protection				✓	✓
seeking Alberta representation in international treaty negotiations			✓	✓	✓
re-establishing an Alberta office in Ottawa				✓	✓
advancing regional strategies for northern development				✓	✓
reforming Employment Insurance		✓			✓

Table 5.1. (continued)

	Alberta Agenda (2001)	MLA Report (2004)	Fair Deal Mandate (2020)	Fair Deal Report (2021)	Government Response (2021)
Rebalancing Approach					
reforming the Fiscal Stabilization Program formula				✓	✓
redistributing seats in the House of Commons				✓	✓
securing more federal government offices and jobs in Western Canada		✓		✓	?
asserting more provincial control over immigration				✓	✓
abolishing residency requirement for federal courts				✓	✓
Fighting Back Approach					
referendum on removing the equalization from the constitution				✓	✓
challenging federal overreach in court		✓		✓	✓
prohibiting use of the federal spending power		✓		✓	✓
resisting federal intrusions into health and social programming		✓		✓	
barring provincial public bodies from agreements with the federal government			✓	✗	✓
Other Approaches					
pursuing market access				✓	✓
diversifying Alberta's economy				✓	✓
using democratic tools to seek Albertans' guidance				✓	✓
affirming Alberta's uniqueness in law and policy				✓	✓

✓ = recommend or support; ✗ = reject; ? = further investigation required; * = only following positive referendum result

connected to the governing party. The Fair Deal Report refused to accept two of the four planks in the Alberta Agenda—establishing an Alberta tax collection agency and seeking tax point transfers in lieu of federal health and social transfers—both of which the UCP government had asked them to re-examine. Despite negative public opinion data collected by its own internal polls, the panel nonetheless opted to recommend the establishment of an Alberta provincial police force and Alberta pension plan—neither of which received the support of more than 40 per cent of Albertans polled.⁹

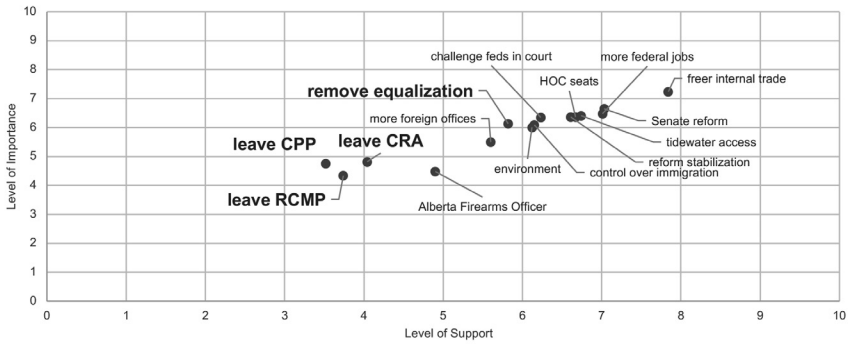
The Government of Alberta responded a month later by indicating which recommendations it supported. These included all of the “bridge-building” measures and all but one of the “rebalancing” proposals. The government committed to investigate other matters further (including three of the four Alberta Agenda policies), and it rejected a few of the Fair Deal Panel’s recommendations (including the tax point transfer proposal mentioned above).

The government’s agreement with the various bridge-building and re-balancing initiatives aligned well with public opinion. Illustrated in Figure 5.1, those measures were ranked among the most important and most favoured of all of the Fair Deal proposals according to our March 2021 Viewpoint Alberta Survey.¹⁰ Among them, Albertans were very supportive of securing additional federal jobs in the West, something research demonstrates would be of considerable benefit to the region and the federal public service;¹¹ the Alberta government has committed to exploring this further.

The government’s decision not to support firewall measures without further study was also consistent with public sentiment; these were among the least salient and popular Fair Deal measures. None of the four were viewed as being important by the average Viewpoint respondent, and none received a support score of at least five out of ten.

We did not measure Albertans’ attitudes about tax points; like the Fair Deal Panel, we found the issue too complex or mundane to measure with public opinion. We did, however, find middling support for the government’s signature fight back strategies: challenging the federal government in court and holding a constitutional referendum on equalization. Our attention turns to this latter issue, as it constitutes the second stage in the Government of Alberta’s Fair Deal strategy.

Figure 5.1. Fair Deal Measures by Level of Importance and Level of Support, March 2021



Sources: Viewpoint Survey, March 2021. N=666. Weighted data. Numbers represent mean responses to the question: “For each of the following priorities for [your provincial government], please indicate your level of support for the idea and how important you feel the issue is.” Support was measured from 0=completely oppose to 5=neutral to 10=completely support. Importance was measured from 0=entirely unimportant to 5=indifferent to 10=extremely important.

Stage 2: A Constitutional Referendum

Most observers trace the genesis of the UCP’s equalization referendum idea to the party’s 2019 provincial election campaign platform. In it, the UCP pledged to “hold a referendum on removing equalization from the Constitution Act on 18 October 2021, if substantial progress is not made on construction of a coastal pipeline, and if Trudeau’s Bill C-69 is not repealed.” The threat was aimed squarely at the federal government for dragging its feet in constructing the Trans Mountain Pipeline, which Ottawa had purchased from Kinder Morgan in 2019 at a cost of \$4.5 billion; and for imposing new health, environmental, and consultative regulations on new infrastructure projects (including pipelines). Later, Premier Kenney would add additional conditions, including reforms to the federal Fiscal Stabilization Fund formula, which he argued had short-changed Alberta billions of dollars by capping the amount the province received as a result of the sudden and dramatic drop in the price of oil. All of these concerns would have been alleviated had the Conservatives won the fall 2019 federal election. When they did not, the UCP pushed forward with its plans to hold the equalization referendum.

The formal announcement of the equalization referendum was made in June 2020, as part of the Alberta government's acceptance of the Fair Deal Panel's recommendations. The vote would take place in conjunction with province-wide municipal elections on 18 October 2021. The government released the referendum question on 15 July 2021. It read: "Should Section 36(2) of the Constitution Act, 1982—Parliament and the Government of Canada's commitment to the principle of making equalization payments—be removed from the Constitution?"

Critics were quick to point out that the question failed to match the government's intent. None of the Alberta government's demands had anything to do with the constitution, a point the premier and the flagship "yes" campaign (run by Fairness Alberta) readily conceded. In responding to a *CBC News* story on the absurdity of invoking the constitution as part of the question, a UCP press secretary tweeted "That's not the point of the referendum. It's about creating a political fact in Alberta by asking Albertans a simple, single question and getting it on the official record."¹²

During a Facebook Live session the day before the vote, Premier Kenney outlined the purpose of the referendum as follows:

The referendum on equalization is a chance for Albertans to say yes to our request for a fair deal in the Canadian federation. Voting yes on this will not end equalization because it is a principle embedded in the Constitution, Section 36, and it could only be amended out of the Constitution with the consent, I believe, of seven provinces representing 50% of the population, plus both houses of the federal parliament, and that's just not going to happen.

Our expectation is not that there will be a constitutional amendment or the end of equalization, but we're using this to get leverage, to basically take a page out of Quebec's playbook in having successfully dominated the political attention of the federation for the last 40 or 50 years.¹³

The decision to pursue a constitutional referendum to spark non-constitutional change has deep roots in Alberta conservative circles. Indeed, like

many elements of the Fair Deal, we can trace it to the Alberta Agenda. In the firewall letter, the authors urged Premier Klein to instigate a constitutional amendment regarding Senate Reform. In doing so, they drew on a contested interpretation of the Supreme Court's decision in the Quebec Secession Reference. According to the firewall authors, "Our reading of that decision is that the federal government and other provinces must seriously consider a proposal for constitutional reform endorsed by 'a clear majority on a clear question' in a provincial referendum." They stopped short of arguing that the Secession Reference *obliged* other governments to negotiate. And they did not suggest a constitutional referendum was necessary (although Alberta law requires one before the legislature entertains an amendment). The "yes" side in the equalization referendum took that next leap, however.

On their website, Fairness Alberta described the constitutional obligations that would result from the Alberta referendum:

This referendum is an opportunity to force negotiations with Ottawa to get Albertans a fairer deal in confederation. . . . In the 1998 Supreme Court reference case concerning Quebec Secession, the Court made clear that a provincial vote supporting any Constitutional change triggered a duty for the Federal government and other provinces to negotiate in good faith. This is why the Referendum question is worded as it is—only a vote in support for Constitutional change compels negotiations. Once negotiations begin, all aspects of fiscal and economic fairness for Albertans can be brought to the table.¹⁴

Former UCP staffer Bill Bewick headed up the Fairness Alberta campaign. In defence of the government's choice of words, he admitted in an *Edmonton Sun* op-ed:

It's true the wording for the referendum question asks if you support removing the principle of Equalization from the constitution. Can Alberta unilaterally amend the constitution? Obviously not. Does anyone expect 7 provinces to agree to delete this? Obviously not.

So anyone who tells you this is about actually amending the constitution is completely missing the point. In 1998 the Supreme Court said a province expressing support for constitutional change triggers a duty to negotiate; that's all this vote is about, but that's critically needed right now.¹⁵

Constitutional experts have challenged the notion that a positive referendum vote would “trigger a duty” or “force negotiations.”¹⁶ Even at least one of the architects of the Alberta Agenda is skeptical.¹⁷ Beyond this, however, there are serious doubts as to whether the referendum posed a “clear question,” represented a “legitimate attempt” at constitutional reform, and received a “clear majority” of support—three necessary criteria for sparking constitutional negotiations according to the Supreme Court.¹⁸

Through the referendum question itself, the government asked Albertans to remove equalization from the constitution. At the same time, they insisted the results were never intended to remove equalization from the constitution. This curious contradiction undermines the premier's contention that the referendum was a “legitimate attempt” to spark constitutional change.

These confusing messages did nothing to dispel voters' misconceptions about the referendum. According to our pre-vote Viewpoint Alberta survey, over half (56 per cent) of Albertans thought that a “yes” vote would result in Alberta “withdrawing from the equalization program.”¹⁹ This was never a possibility, but it is understandable how voters would gain that impression given the government's positioning of the vote. This creates doubt as to whether Albertans truly understood the question they were being asked.

In the end, “yes” ballots outnumbered “no” ballots in the referendum. While there were regional variations—rural areas voted heavily for yes, while urban areas were less supportive—the results are necessarily tallied on a province-wide level. That over half of Edmontonians who cast ballots voted “no” does not, and should not, matter in interpreting the outcome.

Two things stand out in Elections Alberta's reporting of the results, however. First, the “yes” and “no” percentages were calculated without incorporating the 49,336 declined ballots that were submitted by voters. This amounts to 4 per cent of all ballots cast—substantially higher than

in recent provincial elections. We do not know why voters showed up to vote in municipal elections yet chose not to participate in the referendum. But if we count their inaction as some sort of signal, this pushes the “yes” share of the vote down from 62 per cent to 56 per cent of all ballots cast and declined.

Second, Elections Alberta did not report the overall level of turnout. This may be because the referendum was being held in conjunction with municipal elections, and there is no master municipal voters’ list with which to calculate a denominator. This leaves us to construct one, the most reliable and conservative of which would be the number of Albertans eligible to vote in the 2019 provincial election (2.82 million). Using that figure, turnout in the referendum was at most 40 per cent.

Taking all votes and rejected ballots into account, the most generous calculation would have one-in-four eligible Albertans turning out to vote “yes” in the constitutional referendum on equalization. This is well below the Kenney government’s own threshold for citizens to instigate constitutional amendments through the *Citizen Initiative Act* of 2021, which requires signatures of 20 per cent of voters in each of two-thirds of provincial constituencies. Just like the clarity of the question and the legitimacy of the attempt, the magnitude of popular support flowing from the equalization referendum remained in doubt.

Stage 3: The Negotiations

The day the referendum results were released, Premier Kenney held a press conference to interpret the outcome and lay out the province’s next steps:

Later today I will be tabling a motion in the legislature to ratify these election results and initiate the amendment process. And we fully expect the prime minister to respect the constitutional amendment process and to sit down and negotiate with Alberta in good faith.

Of course, our focus ultimately, as I say, is a fair deal. A broader reform of the system of fiscal federalism. A retroactive lifting of the fiscal stabilization program cap to recognize the huge adversity Alberta has faced in recent years. The repeal or substan-

tial amendment of the No More Pipelines law, the repeal of the discriminatory tanker ban that targets this province alone. And so much more.²⁰

While it is unclear what he meant by “so much more,” the premier clearly articulated three demands—all of which require unilateral federal action and none of which involved the constitution. Rather than constitutional negotiations, meeting those demands would require lobbying or the election of a sympathetic Conservative government in Ottawa. They likely wouldn’t involve negotiations with any other provincial government.

At the same 26 October 2021 press conference, Premier Kenney was asked about his government’s next steps to secure a Fair Deal for Albertans, beyond the constitutional amendment process. Here, the premier reiterated his steadfast commitment to pursuing key elements of the Alberta Agenda, reinforcing the perception that the firewall remains the UCP’s ultimate objective.

Later this week, we will, for example, be releasing the initial study conducted by the Department of Justice and Solicitor General on the costs, benefits, and potential advantages of an Alberta Provincial Police Force. We continue to, at our Treasury Board and Finance ministry, carefully to study the potential benefits of an Alberta Pension Plan, which I think would be enormous given the big demographic advantage—the age advantage—of Alberta for the past 40 or 50 years. We just appointed an Alberta Firearms Officer last month to have more common sense oversight in the application of federal firearms legislation. We upgraded the Alberta Parole Board to have Albertans making common sense decisions over parole applications for provincial inmates. So, of course, we continue to pursue the broader Fair Deal agenda while at the same time expecting the Government of Canada to take this referendum result very seriously.²¹

While the creation of a provincial revenue agency to replace the CRA was not specifically mentioned, these remarks draw clear connections between the Alberta Agenda and the Fair Deal. These were framed as being parallel

to his three demands around repealing “discriminatory federal laws” and reforms to fiscal transfer formulas. The implication, however, seemed to be that—if Alberta’s demands were not met—they would proceed with plans to build a firewall around the province.

Implications

During the equalization referendum campaign, I penned an opinion piece with one of the original authors of the Alberta Agenda.²² In it, we urged Albertans to vote “no,” warning them of the dangers of engaging in inter-governmental relations at a time when Alberta’s hand was so weak. As lead negotiator, Premier Kenney’s popularity was abysmally low at the time of the equalization referendum (see DeCillia chapter). In fact, one interpretation of the results sees equalization being twice as popular as the premier. Across the table, Alberta would face a Liberal prime minister in a minority government situation dependent upon the support of his Quebec caucus and two federal parties—one with designs on centralizing the federation, the other with bolstering Quebec’s influence within it. These are not the type of “winning conditions” that the Quebec playbook prescribes. Nor do they resemble the circumstances under which Alberta achieved significant gains in the last round of fiscal federalism negotiations in 2006–2010. As a result, Alberta had far more to lose than win in engaging the rest of Canada at the time of writing.

First, by re-opening the constitution, Alberta risks putting its own control over natural resources firmly back on the table. It is naïve to think that only Alberta’s demands would be considered during this round of constitutional talks. As the premier, himself, acknowledged, Section 92a was pivotal to Alberta’s agreement on the new constitutional order struck in 1982. This control over resources came as part of a series of elaborate trade-offs, however, the most important of which involved enshrining the equalization principle in the constitution. That Alberta would open negotiations by removing Section 36(2) would naturally invite debate over repealing or reducing provincial control over natural resources. Such a tit-for-tat exchange might well end in a stalemate, with the status quo prevailing. But it would set an acrimonious tone for the more substantive set of discussions around reforming federal-provincial transfers.

Here, Alberta's potential losses are far more real and significant. The perspective on Alberta's equalization referendum from other parts of Canada would be quite different from Kenney's spin. Canadians outside the province tend to view Alberta as a land of relative prosperity. The Alberta Advantage mantra has made it exceptionally difficult to convince Canadians in other parts of the country that the provincial government is in need of fiscal support. This is especially true in boom times, as returned to Alberta in 2022. Whether valid or not, to many in the rest of Canada, Alberta's worst days are better than their provinces' best. They have also seen Alberta receive more federal pandemic funds, a boost to the fiscal stabilization fund, and sizeable federal investments in the oil and gas industry (including the purchase of a pipeline and orphan well recovery funding). During the pandemic, they saw a province that had to call in the Canadian military and support from other provinces to battle the deadly fourth wave of the pandemic (see Young, chapter twenty). These perceptions will frame their approach to any federal-provincial negotiations.

As will the suggestion that equalization be removed from the constitution and the implied allegation that some provincial governments are not carrying their fair share of the burden for economic development in Canada. This is unlikely to win the Alberta government many provincial allies around the negotiating table.

If Alberta is seeking to further bolster the fiscal stabilization formula or reduce the size of the equalization envelope, this will likely come at the direct expense of other transfers. When the Harper government made the last set of significant reforms to fiscal federalism, they recognized these sorts of trade-offs. To give Alberta what it wanted at the time—namely, shifting health and social transfers to per capita funding, netting Alberta an extra \$1 billion per year—the Harper government needed to appease the rest of Canada by enriching equalization.

As was pointed out by Prime Minister Trudeau, then-minister Jason Kenney was part of the Harper government that orchestrated these reforms. The fact that Trudeau has chosen not to re-open them either speaks to the quality of the deal or the unwillingness of the federal government to untie a Gordian knot given other, more pressing, priorities. Among them now: addressing the COVID-19 pandemic and global economic recovery.

Heading back to the negotiating table under these circumstances is immensely risky. Premier Kenney's pursuit of a Fair Deal for Alberta could end up setting the province back in constitutional and fiscal terms. Yet, given the foregoing analysis, that appears to have been part of the gamble from the beginning.

The UCP launched the Fair Deal following the re-election of the Trudeau government in 2019 knowing that the new government would be unwilling to meet any of their three demands. That likelihood became even slimmer when the Liberals secured another term in government in 2021. This suggests that the equalization referendum and three demands are best considered part of the UCP's failed fight back strategy than as legitimate attempts at reforming the constitution or fiscal federalism.

Since the referendum, support for the UCP's firewall approach has plummeted. Depicted in Figures 5.2a and 5.2b, removing equalization from the constitution was the most popular of these firewall initiatives over time; even then, fewer than half of Albertans backed the measure according to our surveys. While support for withdrawing from CPP and creating a provincial tax collection agency increased between August 2020 and April 2022, so did opposition. This indicates a hardening of attitudes against the firewall approach over time.

According to our April 2022 Viewpoint Alberta survey, only 25 per cent of Albertans support withdrawing from CPP to create a provincial pension plan, with even fewer (23 per cent) in favour of creating a new provincial police force. Clear majorities (57 per cent) of Albertans were opposed to both measures. A slightly higher share of the population (28 per cent) would like to see a new provincial tax collection agency to replace the CRA, but 51 per cent are opposed. Support for removing equalization from the constitution rested at 47 per cent in April 2022, with 28 per cent opposed and 25 per cent neutral on the issue.

With Kenney's announced departure from the UCP leadership in 2022, the next UCP leader will have to choose whether or not continue to pursue the Fair Deal strategy. It remains a dangerous political gambit, given the continued unpopularity of the firewall approach and the significant risk it poses to Alberta's autonomy.

Figure 5.2a. Support for Firewall Measures, August 2020 to April 2022

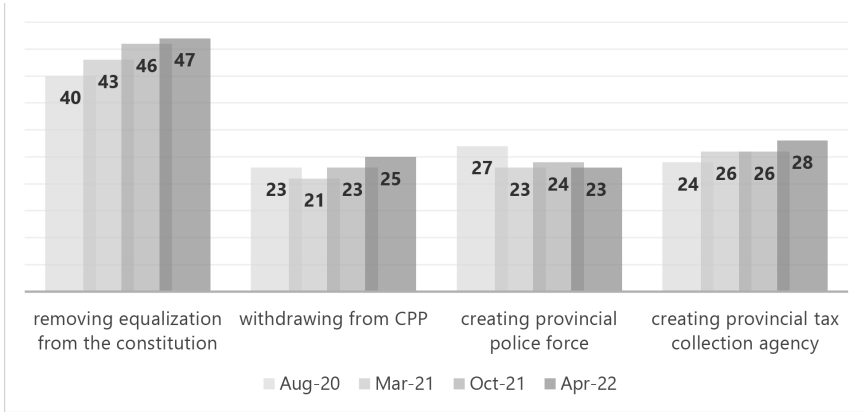
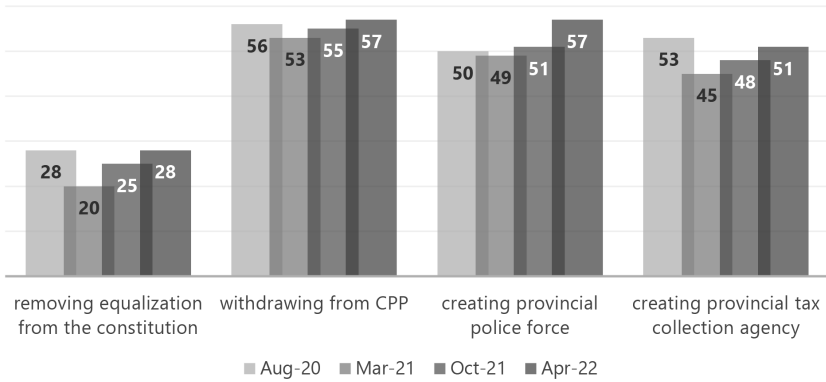


Figure 5.2b. Opposition to Firewall Measures, August 2020 to April 2022



Sources: Viewpoint Surveys. Weighted data. Numbers represent mean responses to the question: “For each of the following priorities for [your provincial government], please indicate your level of support for the idea and how important you feel the issue is.” Support was measured from 0=completely oppose to 5=neutral to 10=completely support. “Support” in this figure represents rating from 6 to 10, “neutral” as 5, and “oppose” from 0 to 4.

NOTES

- 1 Mark Lisac. 2004. *Alberta Politics Uncovered: Taking Back our Province*. Edmonton: NeWest Press, 2.
- 2 Jared Wesley. 2019. "Jason Kenney won by portraying himself as the Guardian of Alberta." *The Conversation*. 21 April 2019.
- 3 Other elements of that fight back approach have seen the Alberta government lose Supreme Court cases over provincial jurisdiction, squander over a billion dollars in investments on the ill-fated Keystone XL pipeline, and generate international embarrassment over the failure of its multi-million dollar energy war room and public inquiry into anti-oil sands funding.
- 4 Jared Wesley and Clare Buckley. 2020. "Separatism in Alberta." *Viewpoint Alberta*. <https://www.commongroundpolitics.ca/separatismab>
- 5 Quoted in: Michelle Bellefontaine. 2019. "Panel will give Albertans chance to share views about Confederation, Kenney says." *CBC News*. <https://www.cbc.ca/news/canada/edmonton/alberta-jason-kenney-justin-trudeau-1.5330821>
- 6 Daniel Béland, Loleen Berdahl, Jared Wesley, and Amy Vachon-Chabot. 2020. "Alberta and the Rest of Canada." *Viewpoint Alberta*. <https://www.commongroundpolitics.ca/alberta-can>
- 7 One of the three MLAs, Drew Barnes, would go on to be expelled from the UCP caucus for voicing opposition to Premier Kenney's handling of the pandemic. Another Fair Deal Panel MLA, Miranda Rosin, would join Barnes in writing an open letter to Premier Kenney decrying pandemic restrictions. Later in 2021, Barnes and Rosin formed the core of an alliance of MLAs to push a "Freedom Strategy" to usurp federal jurisdiction over Alberta. All of this came after their involvement in the Fair Deal process, which both of them felt fell short of protecting Alberta's interests in Confederation.
- 8 For full disclosure, the author was invited to deliver a presentation to the Fair Deal Panel and did so in Edmonton on 22 January 2020.
- 9 The Fair Deal Panel also disagreed with the Government of Alberta's proposal to "more forcefully protect its own powers by requiring that all agreements by municipalities and public agencies with the federal government be pre-approved by Alberta." According to the report, "Most Albertans who responded to the panel were indifferent to this question." Those that did cited the importance of removing red tape and preserving the flow of funds from Ottawa to municipalities for things like infrastructure.
- 10 Jared Wesley, Loleen Berdahl, and Kirsten Samson. 2021. "Western Alienation in Alberta and Saskatchewan." *Viewpoint Alberta*. <https://www.commongroundpolitics.ca/western-alienation>
- 11 Loleen Berdahl. 2021. "The Persistence of Western Alienation." *Centre of Excellence on the Canadian Federation Inaugural Essay Series*. <https://centre.irpp.org/research-studies/the-persistence-of-western-alienation/>
- 12 Tweet by Blaise Boehmer (@boehmerB), 8 June 2021, 9:55 AM MT.
- 13 Jason Kenney. 2021. "Saying YES to a fair deal." Video accessed 11 November 2021: <https://fb.watch/952cZgNC1t/>

- 14 Fairness Alberta. 2021. "FAQs." *EqualizationReferendum.ca website*. Accessed 17 October 2021: <https://www.equalizationreferendum.ca/faq/>. See also Bill Bewick. 2021. "If Albertans vote against equalization, the feds will have a 'duty' to listen." *National Post*. 3 August 2021. <https://nationalpost.com/opinion/bill-bewick-if-albertans-vote-against-equalization-the-feds-will-have-a-duty-to-listen>
- 15 Bill Bewick. 2021. "What's at stake with the equalization referendum." *Edmonton Sun*. 14 October 2021. <https://edmontonsun.com/opinion/columnists/guest-column-whats-at-stake-with-the-equalization-referendum>
- 16 Eric M. Adams. 2021. "Jason Kenney's equalization referendum is built on a crucial misinterpretation." *The Globe and Mail*. 8 June 2021. <https://www.theglobeandmail.com/opinion/article-jason-kenneys-equalization-referendum-is-built-on-a-crucial/>
- 17 Rainer Knopff. 2020. "Refining Alberta's Equalization Gambit." *Fraser Research Bulletin*. <https://www.fraserinstitute.org/studies/refining-albertas-equalization-gambit>
- 18 Jared Wesley. 2021. "Why Alberta lacks a mandate to reopen Canada's constitution." *National Post*. 29 October 2021. <https://nationalpost.com/pmn/news-pmn/why-alberta-lacks-a-mandate-to-reopen-canadas-constitution>
- 19 Jared Wesley. 2021. "Albertans & Equalization: Divided and Misguided?" *Viewpoint Alberta*. <https://www.commongroundpolitics.ca/abequalization>
- 20 YourAlberta. 2021. "Premier Kenney discusses referendum results—October 26, 2021." *YourAlberta YouTube Channel*. <https://youtu.be/FdQEd4roOs4>
- 21 *Ibid.*
- 22 Ken Boessenkool and Jared Wesley. 2021. "Equalization is a good constitutional bargain. Albertans should not vote to scrap it." *CBC News*. 8 October 2021. <https://www.cbc.ca/news/canada/calgary/opinion-alberta-equalization-referendum-boessenkool-wesley-1.6201822>