

# NEWS RELEASE

## Supreme Court rejects Canada as an economic union, green lights provincial trade barriers in ‘free the beer’ ruling

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For Immediate Release

**TORONTO**—A recent Supreme Court ruling will limit the cross-country flow of beer—and other goods and services—for Canadians this Canada Day long weekend and beyond, confirms a report released today by the Fraser Institute, an independent, non-partisan Canadian policy think-tank.

“At a time when Canadians are particularly sensitive to trade barriers, the Supreme Court of Canada has rejected the clear language of the Constitution and allowed provinces to essentially build trade walls,” said Bruce Pardy, a law professor at Queen’s University and author of *Protecting Government from Free Trade: The “Free the Beer” Case at the Supreme Court of Canada*.

The study argues that the Court, in its April ruling in *R. v. Comeau*, also known as the “Free the Beer” case, effectively nullified section 121 of the Constitution, which states that goods from any province shall be “admitted free into each of the other provinces.” Free trade, the Court said, cannot be allowed to impede government intervention in the economy, including regulation.

As a result, provincial governments may raise barriers to any products—including beer and wine—from any other province as long as they can identify a regulatory objective in the public interest.

Thus, provincial liquor monopolies and other anti-trade (i.e. protectionist) policies will be shielded from the intent of section 121 of the Constitution, so long as their “primary purpose” is not to restrict trade.

“This is another instance of the Court remaking the Constitution to reflect its own preferences,” Pardy said.

“The purpose of section 121 of the Constitution was to create one economic union in Canada and to limit the protectionist powers of the provinces, but Canada’s highest court has instead protected their interventionist ambitions.”

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