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The Changing Nature of Intergovernmental Relations in Canada

by

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Abstract

This thesis seeks to explain how the federal government has been able to gain policy influence over areas of provincial jurisdiction. The diplomatic theory of intergovernmental relations has long been used by scholars to explain intergovernmental relations in Canada. However, the diplomatic theory and its dependence on the assumption of co-equality between provincial and federal governments fails to adequately explain the increase of federal policy influence at the provincial level. A re-examination of the nature of intergovernmental relations reveals that it is the federal government's sole ability to articulate a national interest combined with its ability to enforce this interest that has led to increased federal activity in provincial policy spheres. The development of the Council of the Federation as an institutional response to increased federal intrusion and the effects that the Council of the Federation will have on intergovernmental relations will also be explored.

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Dedication

To the love of my life, Monica. Thank you for being a constant source of inspiration, love and support. Everyday I am grateful for having the opportunity to share my life with you.

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Chapter One: Introduction

Throughout Canadian history one of the most important debates that has occurred is over the division of powers. Canadian politics and articles describing Canadian politics are filled with discussions over whether or not Canada would be better off as a more centralized or a more decentralized state. One of the most compelling and intriguing aspects of Canadian politics and political history is how Canada evolved from the country envisioned by Sir John A. MacDonal and the other founding fathers into the country we see today.

From the story of Canada's political evolution, perhaps the important chapter deals with the evolution of federalism. Canada's federal system has evolved to develop its own distinct nature that has had a profound impact on society. As laid out in the Constitution, federalism was envisioned by the founding fathers as a system where the central government would be the dominant body and where regional interests would find expression within the federal government.

However, it quickly became clear that Canadian institutions were poorly designed to accommodate Canada's diverse regional interests. As such, regional interests needed to find expression in an environment outside of the federal government and formal Constitutional structure. This need, coupled with the existence of centralized provincial governments led to the development of executive federalism and a federal system where the provinces became the sole representative of regional interests and the federal government the sole representative of the national interest.

The nature of intergovernmental relations in Canada led Simeon to conclude that intergovernmental relations in Canada resembled international negotiations and

diplomacy. Historically, this comparison has appeared quite accurate. The diplomatic view of intergovernmental relations requires that all governments are authoritative and competent, meaning that they have the ability to implement agreements. This requirement mirrors international relations and the process of negotiations at the international level.

While this explanation at first glance seems sufficient to explain the functioning of intergovernmental relations in Canada, there is an important phenomenon in Canadian politics that the diplomatic theory is unable to provide an acceptable answer for its existence. Increasingly we have seen the federal government become involved in areas of provincial jurisdiction, occasionally by invitation, but more often through informal action. Over time the federal government has carved out a role for itself in health care, post-secondary education and child care, all policy areas assigned to the provinces under the Constitution. This gradually growing influence of the federal government has evolved to the point where the Department of Finance Canada, in a 2006 federal budget paper list post-secondary education and skills training as a joint federal provincial responsibility (Department of Finance, 2006, 20) and two of the Harper government's five priorities involve health care and child care.

At this juncture it is important to ask how this situation has evolved. How has the federal government been able to gain substantive influence over provincial areas of jurisdiction? It is this question which this thesis seeks to explain.

The diplomatic theory is unable to satisfactorily explain how the federal government is able to gain influence over matters constitutionally assigned to the provinces nor how the provinces will respond to such influence. The diplomatic theory

fails to take into account the overlap of constituents that occurs in Canada. Unlike in international relations the Government of Canada can claim to speak for both parties involved in intergovernmental negotiations. The nature of intergovernmental relations leaves only the federal government able to articulate a national interest. Being able to articulate a particular version of the national interest, of the many possible adaptations of the national interest, gives the federal government the unique ability to implement programs indirectly that it cannot implement directly.

Additionally, within in Canada the federal government, through the federal spending power, is able to enforce the national interest that it has defined. In international relations no such enforcement mechanism exists.

It is the unique ability to match its role as the sole articulator of the national interest with the means to enforce that vision (the spending power) that has led to the increase in federal influence in provincial affairs. No greater area has felt the effect of this influence than health care. This thesis pays particular attention to this area.

As we know from the nature of intergovernmental relations, provinces seek to protect their positions from federal intrusions. As a result of the increased federal influence that provinces have gathered together to form an intergovernmental cartel, the Council of the Federation. The Council has the potential to allow provinces to articulate an alternative national interest, something that the nature of intergovernmental relations does not allow them to do independently.

The next chapter explores the nature of Canadian federalism, the atrophy of intrastate federalism and the evolution of interstate federalism. In the third chapter we

move to a discussion of how the diplomatic theory interprets the nature of Canadian federalism. The fourth chapter outlines how the federal government is able to articulate the national interest. After discussing how the federal government formulates their vision of the national interest, the thesis moves into a discussion of the federal spending power; a key element in explaining the success of the federal government in implementing their national vision. The sixth chapter provides us with an illustrative example of how the federal spending power can influence intergovernmental relations by examining how the federal government has gained an influence over health policy, a provincial jurisdiction. The seventh chapter discusses the evolution of the Council of the Federation as a response to federal intrusion and explores whether it has the potential to alter the balance of power within intergovernmental relations in Canada.

Chapter Two: The Nature of Canadian Federalism

In any country, there are bound to be differing regional interests. Whether the divergent interests stem from economics, politics or cultural differences it is important for these regional interests to find expression within the political system. How these interests find expression profoundly affects both society and the political system. In Canada, political scientists have identified two main paths through which regional interests can be expressed in a federal system. The first way is through a process called intrastate federalism. Intrastate federalism refers to the channeling of regional interest within the central or federal government (Loewenstein, 1965, 405-407). Smiley and Watts have further defined intrastate federalism as a situation where both the regional interests of governments and individuals find expression within the central body (Smiley and Watts, 1985).

Secondly, regional interests may find expression outside the formal institutional system through interstate means. Interstate federalism, most commonly referred to as executive federalism in Canada, describes a situation where regional interests are expressed outside of the formal federal institutions. In this situation, the division of powers is most important lens through which federalism is described (Cairns, 1979, 4).

As Smiley first articulated, the Canadian Constitution explicitly laid out an intrastate model of federalism, but as will be shown, the original intrastate federalism

conceived in the Constitution has atrophied, leaving Canada to rely almost exclusively on interstate federalism (1971). This failure of intrastate federalism has had a profound effect on Canadian society.

Failure of Intrastate Federalism

The failure of intrastate federalism has been well documented by numerous scholars but a few important points on this subject are worthy of reconsideration and examination. A read of the Canadian Constitution clearly identifies an intention for an intrastate system, yet in reality, Canada lacks a functioning intrastate system. One of the reasons for the atrophying of intrastate federalism in Canada is that regional governments are given no role in deciding the formal make up of federal institutions. Canadian provinces are not given a say over the selection of Senators as for example, German Lander are given input into the Bundesrat (Smiley, 1974, 15). With Senators being appointed by the Prime Minister, the Senate has become another political body, rather than serving as a house of regional representation (Pelletier, 2002, 4). Furthermore, and perhaps most importantly, Senators are not seen as legitimate representatives of regional interests within Parliament as they are not accountable to the people of the region that they claim to represent (Murray, 1988, 5 and Pelletier, 2002, 4). The Senate has clearly failed to provide a legitimate intrastate voice for Canadian provinces.

Traditionally, Parliament has been seen to act a method of bringing regional interests together within the central government. However, with the centralization of

power our system of responsible government has seen its ability to effectively express regional interests within the federal government limited.

Responsible government in Canada is understood to mean that the Governor General would only act in counsel with his or her ministers (Malcolmson and Myers, 2002, 56). The theory of responsible government further holds that the ministers must be accountable to the House of Commons. They are responsible to the House as they must maintain its confidence in order to remain in power (Rempel, 2002, 179). The principle of ministerial and collective responsibility is a key feature of responsible government (Atkinson and Thomas, 1993, 432-433) and has led to the development of party discipline (Malcolmson and Myers, 67, 2002), due to the majoritarian nature of the House of Commons and other provincial assemblies. If every member were able to vote the way in which he or she wanted to, then no party would be able to maintain a stable majority (Robertson, 145, 1992). The majoritarian nature of Parliament encourages political solidarity over the expression of regional interests.

The nature of the power of the Prime Minister in a responsible government system has directly contributed to the removal of Parliament's intrastate federal elements. The power to appoint and the possibility of future Cabinet appointments are two of the most powerful tools in the hands of the Prime Minister (Simpson, 2001, 50). Mr. Owen, a Liberal Member of Parliament from British Columbia and a former Ombudsman, was in favour of an independent Ethics Commissioner; however, Mr. Owen voted the party line for a Commissioner appointed by the Prime Minister, as he wanted to protect his opportunity to be appointed to cabinet (Simpson, 2001, 49). The power accorded to the

Prime Minister diminishes Parliament's role as a regionally representative body as the incentive structure in Parliament requires political demands be placed ahead of regional interests.

One way of showing how Parliament has lost its ability to express regional differences is the differing passage rates between Government Bills and Private Member Bills (PMB). A Private Member's Bill refers to any bill introduced by a member who is not a member of the Cabinet, whereas a Government Bill refers to a bill that has been introduced by a Minister of the Crown (Parliament of Canada, 2004). At the simplest level, Private Members' Bills represent a Member bringing forward an issue that is of particular concern to the people of his/her constituency (or region). If Private Members' Bills fail a significant portion of the time, then Parliament's ability to effectively represent regional interests has been diminished.

If one were to look at the last five most recent Parliaments, one would find that very few PMB ever receive royal assent. The chart below summarizes the success rate for both Government and Private Members' Bills during the last five sessions of Parliament.

Table 1: Success Rates for Private Members' and Government Bills: A Comparison of the 35th Parliament 2nd Session to the 37th Parliament 2nd Session

Session	# of Government Bills Introduced	# Government Bills Receiving Royal Assent	% of Government Bills Receiving Royal Assent	# of PMBs Introduced	# of PMBs Receiving Royal Assent	% of PMBs Receiving Royal Assent	% of Government Bills As A Total of All Bills Introduced	% of Government Bills As A Total of All Bills Receiving Royal Assent
35 th Parliament 2 nd Session	87	49	56.3%	83	3	3.6%	51.1%	94.2%
36 th Parliament 1 st Session	78	59	75.6%	319	6	1.9%	19.6%	91%
36 th Parliament 2 nd Session	41	25	61%	312	3	0.96%	11.6%	89.3%
37 th Parliament 1 st Session	55	42	76.4%	280	0	0%	16.4%	100%
37 th Parliament 2 nd Session	58	34	58.6%	271	4	1.5%	17.6%	89.4%

Source: Parliament of Canada Website www.parl.gc.ca assessed on March 2, 2004

As we can see from the table above, PMB have played a very small role in the legislative process of the House of Commons. PMB have a very low success rate, and those bills that do manage to pass are mostly on minor issues, such as establishing a week of observance or changing the name of an electoral district (Parliament of Canada, 2004).

Additionally, when one examines the success rate of the government bills, one might be surprised at the low success rate. However, there are several factors not fully explained in the chart. Many Government Bills are “repeat players”, meaning that if they fail it is because the government ran out of time before the session ended. The bills that often die on the order paper are then reintroduced and passed in a subsequent session (Parliament of Canada, 2004).

The executive is clearly dominant over Parliament. Private Members’ Bills are rarely of any consequence, nor are they successful. One of the conclusions that can be drawn from the data presented in Table 1 is that in spite of the fact that PMB have risen as a proportion of all legislation introduced, they continue to be unsuccessful at the same rate as when PMB constituted a smaller proportion of the legislative agenda. An increase in the relative proportion of Private Members’ Bills introduced has not translated into an increase in their success rate. The prevalence of Government Bills over Private Members’ Bills shows us that the legislative output of Parliament reflects the agenda of the executive and not the differing regional interests of the Members.

The centralization of power through the responsible government system has removed some of the last remnants of intrastate federalism from Parliament. Responsible government and the associated control over the House of Commons almost immediately

removed any intrastate element from the House. MPs are forced to remain loyal to the party; they cannot speak out (at least publicly) and provide an adequate form of regional representation (Cairns, 1979, 6-7). Responsible government is not responsible for the centralization of power. It is a necessary but not sufficient condition. When combined with the majoritarian nature of the House of Commons and other political institutions like the electoral system, responsible government helps to facilitate the centralization of power that reduces the effectiveness of regional representation in Parliament.

It is not only Parliament that has seen its role as an intrastate body diminished. Savoie acknowledges that with centralization of power, the influence of Cabinet is under threat. Initiatives undertaken throughout the Trudeau, Mulroney and Chrétien governments have led to power moving increasingly away from Cabinet Ministers. The Prime Minister and his advisors lay out an agenda and only items which contribute to that agenda are pursued. Cabinet no longer truly functions like a collective decision making body. Ministers' jobs tend to revolve more and more around just remaining at the table, as opposed to being policy initiators (Savoie, 199, 336-342). The result of the weakening of Cabinet has been to remove the intrastate aspects it once held. Many of the early cabinets consisted of local notables, who were referred to as regional ministers. These were prominent people from different regions that acted as power brokers for the different regions of the country. However, with the increasing power of the Prime Minister's Office regional ministers have lost their ability to act as regional power brokers (Cairns, 1979, 6).

The Move to Interstate Federalism

With the lack of effective intrastate means, regional interests have found expression through interstate means in Canada. The result of this reliance on interstate federalism left the provinces as the only vehicle that can effectively transmit regional interests to the national government. This fact has led to a reliance on executive federalism or political federalism has important implications on how the federal government has been able to exert influence over provincial jurisdictions.

Recall that earlier it was mentioned in an interstate system, there is a focus on the division of powers. This division has had an important influence on Canadian society. Political parties, interest groups and other societal forces are key in the development and influence of public policy. These groups have tended to organize around the division of power. Groups tend to associate and build ties with the level of government which has jurisdictional authority for whatever issue their concerns may deal with (Cairns, 1977, 713). This reflects the jurisdictional autonomy that is inherent in federal systems and the importance that the division of powers plays in an interstate federal system.

With each level of government responsible for a distinct set of priorities, bureaucracies are needed at both the federal and the provincial level in order to ensure that these priorities are met. The nature of intergovernmental relations then requires each province to engage in state building. Once these apparatuses have been created, there are eleven entities (ten provincial and one federal) that give a high priority to their own long-term institutional self-interest (Cairns, 1977, 704-708). The politic elites of each province are supported by a powerful bureaucracy and tasked with advancing and defending

regional interests and work to develop particular regional vision (Cairns, 1977, 704-706). By a purposeful attempt to increase their own bureaucratic capabilities the provinces and the federal government have given new life to territorial based politics in Canada (Cairns, 1977, 720). The provincial state apparatus which developed in response to societal concerns, in turn have actively influences society. As Cairns says,

The chain of federal influence, commencing with elemental fact of a federal constitutional system, has successfully exerted strong pressure to align parties, interest groups, and individual voters behind the distinct governments which are the essence of federalism. Federal and provincial governments, federal and provincial parties, federal and provincial parties, and federal and provincial pressure groups reinforce each other and the reinforce federalism (1977, 716).

Societal organizations arrange around federal-provincial divisions and help to reinforce the interstate model of governance by promoting regional and central governments and governments work to reinforce the interstate model by projecting a distinct regional vision. In interstate federalism, the provincial governments act as the vehicle through which regional interests are expressed at the national level. Given the jurisdictional autonomy enjoyed by the provinces and the federal government, it is necessary for those seeking to influence policy to concentrate actions provincially and/or nationally depending on the issue. When a lobby group engages with provincial government on an issue, they are reinforcing the fact that provincial government is the sole representative of regional issues.

Many interest groups who have found their issues previously excluded by the traditional process of intergovernmental arrangements have complained about the closed nature of the process (Bakvis and Skogstad, 2002, 19). This rise in protest is an indication

that interests that do not find expression through the interstate system are not expressed and reinforces the position of governments as the gatekeepers of societal interests.

Conclusions

Interstate federalism in Canada has developed into a form of political federalism; in which each province is encouraged to develop its own institutional awareness in order to best defend the interests of that province. Being seen as the defender of local interests provides an incentive for the different orders of government to centralize power within their respective elites and further removing intrastate elements. Canada's constitution does contain some intrastate elements but for a variety of reasons, some accidental and some purposeful, those intrastate elements have never been able to truly translate regional interests to the national stage. Canada then has had to rely on interstate federalism to give expression to its diverse regional interests.

The conclusion that can be drawn from the above discussion is that the nature of intergovernmental relations in Canada results in each province being the sole representative of provincial needs and demands, with the federal government acting as the sole representative of the national interest. This situation has important consequences for how intergovernmental relations function in Canada.

Chapter 3: The Failure of Diplomacy

Now that the nature of intergovernmental relations in Canada has been described, attention can be turned as to how that nature affects intergovernmental relations. As a result of the interstate nature of federalism in Canada, Simeon, describes intergovernmental relations in terms of international diplomacy. Authoritative and competent actors meet together, each expresses the interests of their constituents and decisions are made and implemented. A quick scan of Canadian intergovernmental history shows this theory to be fairly representative of what is easily observed. Large scale First Minister meetings are played out with all the pageantry of international conferences and officials often refer to other Canadian governments with similar tones as used in international relations.

One of the premises that Simeon's executive federalism rests on is the fact that each actor, along with the federal government, enjoys a certain degree of jurisdictional autonomy (Bakvis and Skogstad, 2002, 6). According to one reviewer of Simeon's work, Simeon describes intergovernmental relations as involving negotiations between "co-equal and sovereign authorities representing distinct regional sub-cultures (Stein, 1973, 150)." For Simeon's depiction to be an accurate description of the affect that the nature of intergovernmental relations has on intergovernmental relations, then provincial governments and the federal government must be co-equal.

Two Orders, Not Two Levels

One of the reasons for believing both the federal and provincial governments are co-equal is that each province has a responsible government, speaking on behalf of its citizens. One of the contributing factors to the defeat of the power of disallowance and

reservation was the belief that one responsible government should not be given the ability to trump the other. To have Ottawa disallow provincial legislation would be akin to having London disallow federal legislation, an act that became unconventional (Vipond, 1991, 84-109). After the collapse of the powers of the disallowance and reservation, the provinces could be considered as equal forms of government to the federal government. When Ottawa lost the power of disallowance and reservation, it had to engage the provinces directly (Creamer, 1984, 37).

One of the important components of executive federalism is the notion of autonomy of the provinces. In order to think of diplomatic executive federalism as an effective method of resolving differences, one must assume that the provinces and the federal government are considered equal forms of government. But what is meant by equal forms of government? In setting out the Council of the Federation, the provinces defined the notion of equality in status between the two orders of government. Under that definition neither order is subordinate to the other; meaning each has its own sovereign area of jurisdiction and has sufficient resources to exercise its responsibilities (Council of the Federation, 2003, 1). In other words, both levels are authoritative and competent. There are two orders of government in Canada, not two levels of government. The word “level” implies that a hierarchy exists, whereas “order” implies that there are two distinct government entities (Tindal, 2000, 254). This discussion is not meant to infer that the various players are formally equal to each other. This is not the case for a variety of constitutional, fiscal and practical reasons. All that is implied by the above discussions is the provincial and federal governments each have their own jurisdictions in which they

are autonomous and neither jurisdiction is subordinate to each other. The Government of Saskatchewan is not responsible to Parliament; it is responsible to the Legislative Assembly of Saskatchewan.

As Jennifer Smith points out, the constitution is one basis for arguing that the provinces in Canada are autonomous, although the constitution itself does not provide a clear answer. All of the provincial governments in Canada are supreme within their jurisdiction as set out in the constitution, but certain provisions of the constitution apply only to specific regions of the country. Each province has a series of enumerated legislative powers and certain provisions of the amending formula point towards provincial equality. It is these factors that form the constitutional basis for the belief that the provinces are autonomous (Smith, 2002, 1). However, we must also note that there is an asymmetrical nature to the provinces as well. The provinces entered confederation differently, and they were not equal in the founding of Canada (Smith, 2002, 1).

A final reason behind the argument that the federal and provincial governments should be treated as equal forms of government comes from the constitution. Under section 94 of the Constitution Act, 1982, no province could lose its power over property and civil rights without its consent (LaSelva, 1996, 60-63). This little-known section of the constitution clearly implies that the provinces are intended to be autonomous from the federal government, a principle which underlies the fundamental nature of a federal system.

In general, the literature supports the conclusion that the Canadian provinces have a kind of jurisdictional equality, with each of the provinces remaining supreme within its

own sphere of protection from the federal government (Smith, 2002, 3). This conclusion would seem to indicate that Simeon's conclusions about intergovernmental relations are correct. With the removal of disallowance and reservation as effective constitutional tools, Canadian provincial and federal governments appear, to borrow a phrase from Quebec politics, "separate but equal."

A Breakdown in Diplomacy?

But before the diplomatic theory is accepted as an accurate depiction of intergovernmental relations, we must explain how Savoie can conclude, as was mentioned in the introduction, that premiers and prime ministers are neither subordinates nor equals (Savoie, 1999, 348). In intergovernmental relations, while in one sense the President of the United States has much more power than the Canadian Prime Minister, in international relations they are clearly defined as equals. As Savoie correctly identifies, in Canada we do not view the Prime Minister and the Premier of British Columbia as holding a similar level of office. There appears to be something missing from Simeon's explanation of intergovernmental relations.

Recall that in the previous chapter it was established that as part of interstate federal nature of Canadian intergovernmental relations, intergovernmental relations revolves around the division of powers and provinces, as the sole conveyor of regional interests, seek to protect their jurisdictions. In fact Cairns go as far as saying one of the main goals of provincial governments is to maintain their jurisdictional autonomy (Cairns, 1977, 700). If this is an accurate description of the nature of intergovernmental

relations then how are increases in the influence of the federal government explained by the diplomatic theory?

Only three times in Canadian history has the formal division of powers been altered in favour of the federal government (Cairns, 1977, 700). Most of the increase in federal influence has come through informal means. These alterations in the division of powers have occurred due to changes in the nature of state action, and not through purposeful informal action (Stevenson, 1988, 46-57). Diplomatic theory would seem to have predicted that any change to the division of power would have to come through formal changes to the constitution. It seems unlikely in international relations that a state would cede control over an area of jurisdiction informally. What Stevenson's statement seems to indicate is a change in how intergovernmental actors are responding to the nature of intergovernmental relations that would not have been predicted by the diplomatic theory. If provinces and the federal government did negotiate in a "state to state" manner, it is unlikely that we would have seen the same increase in federal influence over provincial areas of jurisdiction. At its core the diplomatic theory of intergovernmental relations requires that each of order of government has jurisdictional autonomy, but as will be shown in subsequent chapters, the increase of federal influence is distorting and limiting this autonomy, undermining one of the key premises of the diplomatic theory.

Given this apparent deficiency, it is important to advance an alternative to the diplomatic description of intergovernmental relations, which can account for the

increased federal influence over areas of provincial jurisdiction. It is to this task that the remainder of the thesis is devoted.

Chapter 4: Articulating the National Interest

It is important to recall that the nature of intergovernmental relations in Canada leaves the country with 11 distinct visions. Each province is the sole representative of regional interests, meaning that the provincial government is the only body that can effectively transfer regional interests to the national scene. As a consequence of the interstate federal system, the federal government is left as the sole representative of the national interest. As we have seen each of the provinces articulates its provincially specific visions, leaving only the federal government with the ability and desire to articulate a federal vision. While Simeon was correct in noting that this phenomenon affects the intergovernmental relations, his description of how intergovernmental relations are effected does not explain the whole story. A more detailed explanation is required to explain how the federal government has been able to gain influence over areas of provincial jurisdiction.

National Interest

The fact that the nature of intergovernmental relations leaves Canada with one actor representing a national vision and ten actors representing distinct regional interests cannot be underestimated for its importance. Rather than concluding as Simeon did that this fact indicates the diplomatic nature of intergovernmental relations, this fact allows us to conclude that Canadian intergovernmental relations are distinctly different from international relations. It is true that in international relations distinct actors come together to negotiate on behalf of their people and attempt to garner the best possible policy outcomes.

However it is important to remember that when countries meet on the international stage, they are representing the aggregate interests of their societies. The President of the United States is only represents Americans in negotiations and the Prime Minister of Canada only represents Canadians. There is no overlap between interests that each of the governments is claiming to represent.

The same cannot be said for intergovernmental relations though. In intergovernmental relations both the government of Ontario and the Government of Canada can legitimately claim to represent a citizen of Toronto. There is a clear overlap between the people who are represented by provincial governments and the federal governments. This important, yet some what obvious divergence from the international diplomacy model has important consequences for federalism in Canada.

The concept of national interest does require some explanation, although how one conceives of the concept of the national interest is not particularly important. No matter what your view on how the national interest is formulated, the underlying facts remain the same; in Canadian intergovernmental relations, unlike international relations there is an overlap between the interests that the actors are claiming to represent. As Cairns explains, the nature of intergovernmental relations involves provinces advancing regional interests leaving the federal government free to articulate the national interest based on national majorities (Cairns, 1977, 706). With ten distinct visions of the country and one overarching vision the conflict we see in intergovernmental relations in predictable. With a lack of intrastate federalism, most often these visions, to be effectively expressed, have to be expressed through executive federalism. Centralized control of the state apparatus

means that premiers become the main vehicle through which societal inputs are uploaded and desired policy outcomes are downloaded. Each provincial vision is local in nature and tends to be protectionist (protectionist in terms of securing the maximum benefit for their electorates); Ottawa's vision, on the other hand, tends to be national in scope, expansionist, and not always aware of local effects. Ottawa attempts to appeal to the individual, whereas the provinces focus on regional interests (Cairns, 1977, 705).

Effect on Intergovernmental Relations

In order to properly explain the effect that the nature of intergovernmental relations has on intergovernmental relations it is beneficial to understand the work done Tsebelis on political institutions. While Tsebelis's work focuses on the stability of political arrangements his analysis is helpful in explaining Canadian intergovernmental relations.

Tsebelis's work focuses around a discussion of veto players in political institutions. What is a veto player? According to Tsebelis, a veto player is any player in the legislative process that must agree to any proposed changes in the policy status quo (2002, 2). He goes on to define two specific types of veto players. The first type is those who receive their veto powers from the Constitution, and are considered to be institutional veto players. The second type is partisan veto players, who derive their powers from the political process (Tsebelis, 2002, 19).

In order for an intergovernmental agreement to be concluded, the provinces and the federal government must agree, which means that both the provinces and the federal government are veto players in intergovernmental relations. While to some it may seem

that Canadian governments are institutional veto players, they are also political veto players. The nature of Canadian federalism has instituted the provinces as veto players and their role within federalism is defined by the political process and not the constitution.

Tsebelis describes each actor as having a specific set of ranked preferences. An actor's preferences can be conceptualized as a circle, where the actor prefers each policy option that lies within the circle to those outside of the circle, with the centre of the circle being the actor's optimal policy outcome (2002, 20). Veto player theory rests on the assumption that policy outcomes are the result of the combined preferences of all actors involved in the making of a particular decision. In areas where the policy preferences of each actor overlap a winset or set of potential policy options that are acceptable to all parties involved is created (Tsebelis, 2002). Applying this theory to intergovernmental relations, we can begin to see how the federal government has been able to gain influence over areas of provincial jurisdiction. We can easily think of each province as having a defined set of preferences for each policy issue. The federal government, which attempts to articulate a national vision based on national majorities is able to strategically locate its preference so as to overlap in the most preferred manner with provincial preferences.

This ability to consider the interests of others and subsequently select a policy option from the associated winset that aligns with an actor's preferences gives the federal government the agenda setting power (Tsebelis, 2002, 34-35). Aware of provincial preferences, the federal government is able to offer the provinces the deal that most suits federal priorities and not provincial priorities. Historically, only the federal government

has had the ability to call First Ministers' Conferences, in part demonstrating that they have the agenda setting power (Boase, 1995, 164 and Brown, 2004, 6).

No rational actor is willing to accept a policy position that is further from their ideal policy than the status quo currently is (Tsebelis, 2002, 8-9). In intergovernmental relations this means that so long as the policy being proposed by the federal government falls within the provinces ranked preferences, even if it is less than the optimal preference, a province is willing to accept the federal position. When the federal government makes a proposal to the provinces, often the provinces are willing to accept this proposal as it satisfies the regional interests to a greater degree than the current policy status quo.

It is important to note that depending on the decision making model that is agreed to, not all actors need to have their preferences addressed in order for a decision to be reached (Tsebelis, 2002). For example, if only a majority or qualified majority of actors need to agree to a particular policy before it is agreed to, then all actors will not necessarily see the optimal preferences reflected in the winset. In intergovernmental relations, there are several different ways in which the national interest can be articulated, meaning that the federal government cannot only choose its preferred position within a winset, but it can choose from among several winsets depending on the issue.

Conclusions

The diplomatic theory of intergovernmental relations fails to take into consideration the fact that in Canada, unlike in international relations interests overlap.

The national interest represented by the federal government overlaps with constituents represented by provincial governments.

At this point it may seem contradictory to say that the national interest overlaps with the regional interests expressed by the provinces given that the nature of interstate federalism leaves the provinces as the sole conveyor of regional interests. However, upon closer examination these two facts are not contradictory. With no effective intrastate mechanism, federalism in Canada has relied upon interstate federalism. The resulting societal effects have meant the provinces are left to articulate regional interests nationally.

In formulating the national interest describe above, the federal government is responding to policy preferences of regions as translated by provincial governments. Knowing the preferences of each province the federal government is then able to select the policy solution from the winset or winsets that most resemble its optimal position. The federal government then knows that although not the preferred position of most provinces, it still represents an acceptable position to most if not all of the provinces. The national interest is not developed because of the internal working of the federal government; it is a lose collision of various provincial interests, hence the overlap between the national and regional interest. Given the various ways in which the national interest can be described provincial interests may not consistently be reflected in the articulated national interest. It is therefore possible to say that provincial governments are the sole representatives of regional interests, despite the fact the national interest may overlap regional interests.

The question as to why provinces accept federal intrusion can also be partially explained using our understanding of the nature of intergovernmental relations. The nature of intergovernmental relations encourages provinces to be very protective of their jurisdictions. If this is true the one would assume that provincial preferences would rank very highly the preservation of provincial jurisdiction over certain policy matters. How can the increase in federal influence be explained then? When a proposed policy presents an improvement over the status quo, even if it represents an increase in federal influence, provinces accept the proposal. The national interest described in this chapter provides only part of the answer. The expression of a national interest provides the motivation and legitimization of the use of the federal government's enforcement powers. It is the federal spending power that provides the federal government with the ability to implement and enforce the national as outlined in this chapter, despite the provinces inclination to resist federal influence. The use of the federal spending power as an enforcement mechanism is outline in the next chapter.

Chapter Five: The Enforcing Effect of the Federal Spending Power

The previous chapter described how the federal government defines the national interest. That discussion provided the basic theory behind federal action without commenting in a substantive way on how the federal government has been able to take the national interest from an abstract formulation to implemented policy. Unlike in international relations, in intergovernmental relations an effective enforcement mechanism exists. Because of the fiscal imbalance in Canada, provinces require federal assistance in funding the social programs that they are charged with developing and running. This fiscal imbalance provides an opening for the federal government to implement its version of the national interest by using the federal spending as a means to enforce that vision. In other words, the addition of federal funds, makes the federal proposal better than the status quo, provinces will accept the proposal and its associated federally articulated national vision. This chapter then seeks to explain how the federal government is able to use the federal spending power as an enforcement mechanism.

Fiscal Federalism

Fiscal federalism has, at its roots, the federal spending power; however the federal spending power is one of the least studied and understood areas of Canadian government. When asked to define what the spending power is, or where the federal authority over the spending power comes from, many are at a loss to accurately describe it. The source of this confusion has been properly identified by Peter Hogg. Hogg identifies that the power is not explicitly referred to in the *Constitution Act, 1867*, but rather is inferred from the powers to levy taxes set out in s.91(3); the power to legislate in relation to public property set out in s.91(1A); and the power to appropriate federal funds set out in s.106

(1992, 150). While it is generally accepted that Parliament must have the authority to spend the money that it raises, there is disagreement as to the degree to which the federal government can spend in areas outside of their jurisdiction. An argument has been made that the federal and provincial spending powers are limited to objectives in their respective jurisdictions (Hogg, 1992, 150). This argument matches with the theory of fiscal responsibility whereby governments should raise the required money to look after their areas of competency. However, this theory has never been applied literally, as this extreme version of the watertight theory of federalism would lead to large discrepancies between the provinces (Hogg, 1992, 151). As will be shown latter in this chapter there is a large difference in the fiscal position of each province and should each province be confined to spend money only in their jurisdictions, only using own source revenue, there would be a great discrepancy in services provided between the provinces.

When the *Constitution Act* was patriated in 1982, it entrenched the principle of equalization, which at the same time has entrenched the use of the federal spending power (Hogg, 1992, 151). Additionally, the federal spending power received a hand towards legitimization from the Supreme Court of Canada. In the ruling in *Re Canada Assistance Plan (1991)*, the Court gave a clear decision indicating that Parliament could spend on whatever program it wished and it could attach conditions to money that is transferred to the provinces. The power of the Legislatures to spend is limited to whatever the governments could pass through their respective legislatures (Hogg, 1992, 152-154). The federal spending power has thus been firmly entrenched in Canadian society.

The Fiscal Imbalance

In order to understand the effects that the fiscal imbalance has on intergovernmental relations it is important that the fiscal imbalance be properly defined. A fiscal imbalance occurs when one order of government has less revenue from all sources than it needs, while the other order has more than it needs (Lazar, et al., 2003, 149). A fiscal imbalance indicates that there are structural problems with the fiscal federal system.

One of the traditional reasons for the fiscal imbalance existing in a federation would not, at first, seem to apply to Canada. This is because both levels of governments have access to direct taxation (Norrie & Wilson, 2000, 80-81). However, the provinces still remain at a disadvantage in terms of revenue generation. This happens because the federal government takes a large share of the taxes for themselves. The provinces are then limited in how much they are able to tax, as there is only one tax payer (Telford, 2003, 32-34). A counter-argument to this point would be that many of the transfers have included tax point transfers as well as cash transfers. This means that the provinces can increase their own source revenue without the tax payer having to pay more out of his or her pocket. However, provinces are still more limited in raising revenue through taxation in comparison to the federal government, as people are able to freely move between provinces (Norrie and Wilson, 2000, 89). As a result, provincial tax bases are mobile, while the national tax base is much more stable.

Currently in Canada, federal projected revenues are expected to grow faster than provincial revenues, while the expenses of the provinces are growing faster than federal

expenses (Lazar, et al., 2003, 153-154). This imbalance occurs, in addition to the broader federal taxation powers, because federal revenues tend to come more from quickly growing sources like personal income taxes, while the provinces' revenue (excluding Alberta with its resource revenue) is more dependent on slower growing streams such as transfers. The reverse holds true for expenses. Provincial expenses consist of faster growing areas, such as health, whereas the federal government expenses, such as the military and transfers to the provinces, are not growing at as great a rates (Lazar, et al., 2003, 153-154). Given that federal revenues stem from fast growing, broad-based sources and face slow growing expenses and that provinces are in the opposite situation, it is clear how the fiscal imbalance arises.

Fiscal imbalance allowed for the federal government to initiate many of the cost-sharing programs (Lazar, et al., 2003, 180), and expand their influence into the provincial areas of jurisdiction. The difference in growth patterns of revenues and expenses clearly puts the provinces in more unstable fiscal positions compared to the federal government (Lazar, et al, 2003, 182-183). It is this fact that gives the federal government the advantage in fiscal federalism.

The initial fiscal imbalance allowed for the federal government to expand its jurisdiction into provincial areas. Despite the argument that the fiscal balance in Canada is fluid, and that during the 1980s it was in favour of the provinces (Lazar, et al, 2003, 180), the federal government still retains the ultimate fiscal power. This could be seen when the federal government cut payments to the provinces in 1995 (Lazar, et al, 2003, 137). The federal government used the original fiscal imbalance to set up many of the

cost-sharing programs, and then was able to alter their funding commitments in order to regain federal advantage. The fiscal position of the provinces in Canada is largely dependent on the federal government. The federal spending power has an impact on the ability of the provinces to adequately plan programs and services due to the provinces' dependence on the federal money. The federal spending power increases the centralization of legislative power and directly limits provincial autonomy (Tremblay, 2000, 157), because it allows for federal intervention in areas of provincial jurisdiction.

Fiscal federalism has been a central dynamic of Canadian politics. It is impossible to mention intergovernmental relations without referring to fiscal arrangements. The federal spending power, which dominates fiscal federalism, has the ability to allow the federal government to select its preferred conception of the national vision (preferred winset and/or location within winset) and implement it. The fiscal imbalance in Canada has created the need for a system of intergovernmental transfers (Norrie and Wilson, 2002, 79-83) and history has privileged the federal government with the majority of fiscal resources. Former Prime Minister Trudeau indicated that the federal spending power was the ability of the federal government to spend money for purposes for which it was forbidden to legislate (Telford, 2003, 25).

Before analyzing in detail the effects that fiscal federalism has on intergovernmental relations in Canada, a cursory examination of fiscal transfers would be beneficial. The current system of federal transfers has largely been forced into existence due to the nature of the Canadian constitution (Bernier and Irwin, 1995, 284). The first type of fiscal arrangement takes the form of equalization payments. These payments are

given to the poorer provinces unconditionally. As the name implies these payments are designed to ensure that each province can provide its citizens with a similar level of service (Bernier and Irwin, 1995, 272) at similar levels of taxation (Department of Finance Canada, 2006, 1). The payments were calculated until recently through a complex mathematical formula (Department of Finance Canada, 2006, 1).

The second major form of intergovernmental transfers is the Established Programs Financing (EPF) funding, which became the Canadian Health and Social Transfer (CHST), and as of April 1, 2004 the Canadian Health Transfer (CHT) and the Canadian Social Transfer (CST) (Department of Finance Canada, 2006, 2). Under this formula, the federal government contributes to the partial funding of health care and post-secondary education. These funds are transferred to all provinces on a per capita basis, with some variation between the provinces. The CHT/CST consists of both cash and tax point transfers (Bernier and Irwin, 1995, 275-276).

The third type of fiscal federalism consists of direct transfers to individuals. The original program, the Canadian Assistance Plan (CAP), was a cost sharing program, which provided welfare payments to the poor, workplace training and basic social services. CAP was not determined on a per capita basis, but rather was proportional to provincial expenditures on social assistance (Bernier and Irwin, 1995, 277).

Equalization: At What Cost?

It is important to note that although there is a constitutional requirement for the government to consider the use of equalization payments, the level of those payments is

not set through federal legislation and not the constitution (Lazar, 2005, 19). The fact that it is up to the federal government to determine the level of the payments gives the federal government a significant fiscal advantage over a program which is of great importance to the provinces. Not all provinces receive equalization payments as a result of all provinces not being equal in terms of how much own-source revenue they can generate.

Additionally, this method of horizontal redistribution tends to create, in the have-not provinces, an institutionalized dependency on federal money (Bernier and Irwin, 275). It is hard to think of provinces as autonomous entities on the same scale as the federal government, when they are dependent on the federal government to provide them with money to meet the needs of their citizens. Thus, fiscal federalism provides us with an indication that, in actuality, no province (with the possible exception of Alberta), is fiscally autonomous. When we are talking about fiscal autonomy we are talking about degrees and not absolutes. The difference in fiscal status between provinces is not nearly as important as the unequal status between Ottawa and the provinces as a whole.

As the national government sends resources to the sub-national unit, it creates an unsustainable, based on local revenues, level of service. The level of service is sustainable as long as the federal government is willing to keep sending money, which places the provinces receiving equalization at a distinct disadvantage. In the fall of 2004, the Government of Canada announced changes to the equalization formula which saw future growth capped at three and a half percent and a guaranteed floor for payments (Department of Finance Canada, 2006, 1-2). Provinces who have argued that the equalization program is currently underfunded argue that by fixing the payment, under

funding is locked in (Government of Manitoba, 2006, 6). This fixing of future equalization payments in the name of certainty creates a program that is unresponsive to potential changes in fiscal capacity (Government of Manitoba, 2006, 5). As a result, should there ever be an economic crisis; provincial governments would require the national governments assistance to bail it out (Rodden, 2002, 672).

No provincial government, with possible exception of Alberta, because of the fiscal imbalance, is able to function completely autonomously. Figure 1 highlights the degree of provincial dependency on the federal government.

Figure 1: Provincial Dependency on Major Federal Transfers for 2004-2005

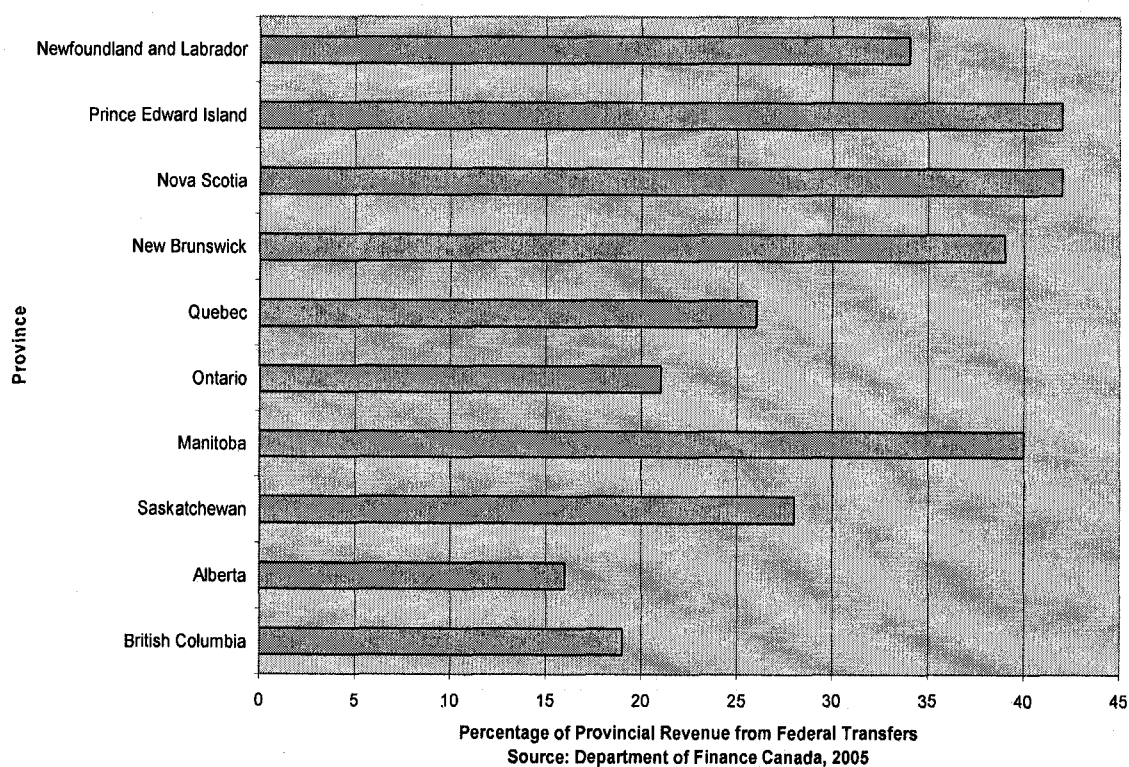


Figure 1 outlines the percentage of provincial revenues for the 2004-2005 fiscal year that comes from major transfers (CHT/CHST, health reform transfer and wait times funding) and equalization payments. On average, federal transfers account for approximately one quarter of every loonie spent by a provincial government (Department of Finance Canada, 2005, 1). It is clear from Figure 1 that every province is to some extent fiscally dependent upon the federal government.

In order for voters to view the sub-national government as fully autonomous, it must be financially self-sufficient (Rodden, 2002, 563). In order for a province to have fiscal autonomy, it must be able to offer a reasonable level of service from within its own financial resources. However, this type of fiscal autonomy has never existed in Canada (Perry, 1955, 437). If the intended division of powers is to be meaningful, then each level must have its own fiscal powers (Telford, 2003, 31). Again, equalization places the federal government in a superior position to the provincial governments, as the provinces are dependent upon the federal government.

Unconditionally Conditional Grants

The second major source of inter-governmental funding is through service provision grants. Initially, one might wonder why this arrangement is cause for concern to the principle of equality of the provinces. The federal government, however, is able to attach conditions to the transfers under CHT/CST. The *Canada Health Act* disallows extra-billing and provides evidence of the federal government becoming involved in provincial competencies, through the use of the spending power (Bernier and Irwin, 1995, 275-276), (Stevenson, 1988, 44). This exemplifies the fact that the federal

government has been able to use the federal spending power to enforce the national will. The power to impose conditions on the provinces, through the spending power, gives the federal government a trump card. The spending power, as laid out by the Constitution, allows the federal government to spend on any area, attaching regulations to funding allows Ottawa to regulate where they cannot legislate (Telford, 2003, 29-30). It restricts the province's ability to act within its own sphere and provides the federal government with a level of influence not intended in the Constitution.

The Social Union Framework Agreement (SUFA) may provide a new source of centralization (Lazar, 2000, 112). This is because it allows the federal government to initiate spending when six provinces agree to the program (Lazar, 2000, 1122). Again, this formula gives the federal government more of an advantage. This occurs because the SUFA reaffirms that the federal use of the spending power is acceptable (Telford, 2003, 40). The acceptance of the use of the federal spending power gives the federal government the agenda-setting power in terms of fiscal federalism. The SUFA assumes that now, all cost-shared programs will be initiated by the federal government and not by the provinces. The provinces have been able to insulate themselves somewhat from the unilateral expansion of federal intrusion into their jurisdictions (Lazar, 2000, 114), but are not insulated from a retrenchment of the federal spending power. In order to provide a certain level of services, the provinces are still indebted to the federal government.

At some level, any form of national standards is an intrusion into provincial jurisdictions (Telford, 2003, 36). Regardless of whether one believes that is a positive or negative aspect of national standards, the fact remains that when conditional grants such

as the CHT/CST are given, the national government is infringing upon provincial jurisdiction. Applying national standards (which involve the federal government) limits provincial autonomy (Tremblay, 2000, 177). Although it is possible for a province to turn down federal money, it is very rarely done (Telford, 2003, 24). The opt-out clause of the SUFA also shows how the provinces are subordinate to the federal government. If a province wishes to opt out of the national program, then in order to receive compensation, it must develop a program with similar goals. That arrangement provides only the illusion of provincial autonomy as the program that is created must be consistent, but not identical with the goals of the federal program (Telford, 2003, 37).

The Quebec Government's refusal to sign the SUFA agreement is a clear indication that the agreement at some level legitimized the use of the federal spending power in provincial jurisdictions (Tremblay, 2000, 158). Again, the ability of the federal government to proceed without Quebec indicates that not all provinces need to agree with the federal articulation of the national interest in order for it to be implemented through the use of the federal spending power.

The federal government in the 2006 federal budget has promised to pursue a new form of open federalism which is based upon the SUFA with provinces receiving compensation for opting out if they provide a program with similar goals and accountability measures (Department of Finance Canada, 2006, 56). It is important to note that despite the federal government's claim that this is a new form of federalism it is not. "Open Federalism" will allow the federal government influence over provincial programs as in order to receive funding even provinces opting out of the joint program

must acquiesce to federal standards to receive funding. The federal spending power allows the federal government to enforce its national interest. The ability to attach conditions to federal funding allows the federal government to alter provincial spending powers (Tremblay, 2000, 156). If the federal government can alter the spending priorities of the provincial governments in areas that are of sole provincial jurisdictions, then the federal government has an upper hand in intergovernmental relations. Changes in the provincial spending patterns have not affected greatly affected Ottawa's financial decisions.

Building Direct Relationships

The third component of fiscal federalism is direct transfers to individuals. The federal government is able to provide direct subsidies to individuals, even in areas of provincial jurisdiction, as shown above (in the discussion on the basis for the federal spending power) and this ability enables the federal government to unilaterally develop programs in social policy (Rice, 2002 117-118). These are some of the most basic programs, and they are designed to promote interpersonal equality (Brown, 2002, 66). These direct transfers, especially in the area of income security, allow the federal government to create a direct link to the citizens of Canada (Banting, 1987, 177). As long as Ottawa has control over income security and other direct links to the voters, it has an important card to play in intergovernmental relations (Banting, 1987, 177). This fact contributes to federal provincial equality in the following way. Originally, the provinces were charged with the provision of most services. This provided the provinces with a direct link to the people of their province. The federal government had no direct link to

the people, and remained an abstract type of concept. However, with the advent of the federal direct links to citizens, people began to feel attached to the federal government and see the federal government as a service provider.

The federal government, by continually increasing direct transfers to individuals, hopes to create a citizenry that is dependent on the federal transfers (McIntosh, 2004, 11). It is this dependency that ensures a role for the federal government. Just as the provinces have specific interests that are aligned around their state apparatus, providing direct supports to individuals creates interest groups and lobbies to support the federal state structure. This intrudes on the jurisdiction of the provinces and weakens their claim to represent the people most directly. Despite the fact that direct payments to individuals have been largely rolled into the CST block funding, citizens have now associated the federal government with social security policy. Canadians have become socialized to the active presence of the federal government in social policy.

From 1997/1998 to present, the country has enjoyed eight years of surpluses, and Ottawa has begun to restore the funding that had been cut when the CHST was introduced. There has been a twist to this restoration of funding. The funding has for the most part not been directed towards the provinces, but rather has been used to initiate new programs in provincial jurisdictions (Hobson and Hilaire, 2000, 183). The federal government appears to be capping transfers, while at the same time using their spending power to effect social policy that is extra-jurisdictional. Examples of the recent direct initiatives include the National Child Tax Benefit and the Millennium Scholarship program.

As recently as the 2003 federal budget and the 2004 throne speech, the federal government committed to drastically increasing direct transfers to individuals in order to stake out new areas for the federal government in social policy (McIntosh, 2004, 3). The budget of 2003 allocated nearly twenty billion dollars in spending on social programs outside of transfers to the provinces. This figure represents approximately two and a half times the amount that Ottawa plans to transfer to the provinces for social programs under the CST (McIntosh, 2004, 10).

These direct spending programs illustrate the power of the federal government vis-à-vis the provinces. Ottawa is largely able to ignore the wishes of the provinces and has shown that the restrictions placed on the spending power by SUFA are not meaningful. Ottawa has been trying to establish a direct presence in social policy areas, but their actions are inconsistent with the nature of the development of social policy (Hobson and St. Hilaire, 2000). The provinces are left in the position of being blamed for poor service delivery, while the federal government is praised for the advancement of new programs. The federal government, therefore, has a political interest in relaxing conditions (and in return, cutting funding, as was done with the switch to CHST) for the provinces; in so doing, the federal government can focus more on direct service provision, which is more politically advantageous (Boychuck, 2002, 127-128). Ottawa prefers direct transfers, as they give the federal government more flexibility and also result in more visibility for the federal government in social policy (Boychuck, 2002, 131).

Originally, the provinces had jurisdiction over social policy and were able to set the agenda. However, the use of direct federal spending is able to distort provincial priorities (Tremblay, 2000, 179). That was one of the strengths of federalism. Each province could solve local problems with local solutions. Policy experimentation and diversity were a definite strength of federalism (Doern and Phidd, 1997, 142). The first cost shared programs involved Ottawa's responding to the actions of the provinces. The most high profile example of this was the expansion of the hospital insurance system initiated by Tommy Douglas in Saskatchewan. The switch to direct provision has somewhat undercut the legislative initiative of provinces. The provinces are now forced to respond to initiatives of the federal government. The strategic use of the federal spending power has almost accomplished a complete reversal of the initial policy process leaving Ottawa with substantial influence over provincial areas of jurisdiction.

With the federal government in surplus, the initiation of new direct programs does more to exacerbate the fiscal imbalance than alleviate it, as the provinces are still lacking revenue. As the direct fiscal help has developed via direct to individual transfers the provinces lost one of their areas of exclusivity were further subjected to the agenda of the federal government. The cut in federal transfers meant that provinces had to cut programs (Rice, 2002, 114,). Thus, the federal spending power directly influences the status of provincial governments. The federal government was able to alter its position in social policy by changing its use of the federal spending power.

Conclusions

The fiscal gap is likely to continue providing a centralist impulse into Canadian politics. This happens because, in all recent negotiations, the federal government has been, in most cases, unwilling to discuss the inclusion of an escalator clause (a firm commitment to future funding increasing) into federal transfers. This prevents the provinces from gaining any level of control and leaves increases in funding at the sole discretion of the federal government (McIntosh, 2004, 2).

The Conference Board of Canada recently examined the fiscal gap in Canada. The Conference Board concluded that between 2003 and 2020, federal surpluses would constantly increase and ultimately reach \$78 billion in 2020 (Conference Board of Canada, 2004, 9). The predicted federal surpluses can be contrasted with deficit forecasts for provincial and territorial governments in Canada. The total annual deficit of the provincial and territorial governments is predicted to reach \$11 billion by 2020. This is up from the provincial and territorial aggregate deficit of \$1.8 billion in 2002-2003 (Conference Board of Canada, 2004, 9). As a result, the federal government will lower its debt level, while the provinces are forced to increase theirs. The end result of this fiscal gap will be that “only the federal government will have the financial capacity to implement new initiatives such as tax cuts and discretionary spending” (Conference Board of Canada, 2004, 10).

The federal spending power acts as the enforcement mechanism in intergovernmental relations that allows the federal government to implement the national will that it has articulated. Together the federal spending power and the federal

government's role as sole articulator of the national interest combine to give the federal government increased influence over areas of provincial jurisdiction. The federal spending power helps to ensure that federal proposals, even those which contain provisions for increased federal policy control are adopted. The attachment of federal dollars to federal proposals makes the federal proposal more appealing than the status quo, and thus provinces are therefore willing to accept sub-optimal agreements. The presence of a large fiscal imbalance and the resulting provincial dependency undercut the assumption that the provinces act as co-equal governments as Simeon assumes in the diplomatic theory.

As outlined in the last chapter, the nature of intergovernmental relations has shown us that provinces seek to defend their place and as such, in forming their set of preferences maintaining provincial control is near the top. The federal government strategically picks a policy solution from the necessary winset that most resembles its most preferred achievable position (often involving more federal control given the expansive nature of the national interest) and can use the enforcing nature of the federal spending power to alter provincial priorities. Thus the term federal spending power is aptly named as it gives the federal government the ability to force the provinces to assent to an agreement that they otherwise would not have assented to.

The enforcement power of the federal spending creates a major divergence between diplomatic theory of intergovernmental relations and the current state of intergovernmental relations.

The next chapter will focus on health care and how the federal government has been able to gain enormous influence in a policy area from which it is excluded, according to the Constitution. Health care has now become the main driving force behind intergovernmental relations (Boychuck, 2002, 121). As such, it provides us with an excellent case study to examine the effect of the interplay between the federal spending power and the national interest.

Chapter Six: Health Care: Enforcing the National Interest through the Spending Power

Healthcare has become one of the most important issues in Canadian society. It has also been one of the most studied areas of public policy. Numerous articles, books and dissertations have discussed what is to be done about “fixing” the “problems” in healthcare. This discussion is not concerned with the actual policy that is developed, but rather how the nature of intergovernmental relations affects health policy.

The *Canada Health Act, 1984 (CHA)* represents the federal government’s attempt to institutionalize a role for itself in health policy by maximizing its use of the spending power, externalizing its internal control over policy direction and budgetary control. The federal spending power and the willingness of the federal government to use it play an important role in the analysis of this chapter. Before the introduction of the *Canada Health Act*, the provinces acted reasonably autonomously in the area of health policy. The provinces were constrained by their constitutional limits on taxation and the federal government was largely constrained due to the fact that they did not have formal jurisdiction over health policy. However, the federal government represents the national interest and such it, the federal government was (and continues to be) interested in nation building particularly through the development of national social policy. In order to achieve this goal, the federal government had to have control over how the money was spent as they lack formal jurisdiction over health care.

The *CHA* removed the old structure and “locked in”¹ a new institutional arrangement, in which the federal government was a formal player. The provinces *are now constrained, not only financially, but by the federal government through the CHA*. The federal government, because of its spending power, can in fact direct health policy largely in the direction it sees fit, and the provinces are then constrained to follow that direction, due to their dependence on federal fiscal resources.

The *CHA*, not the constitution, sets out the federal-provincial framework through which all subsequent health policy has been formulated. The *Canada Health Act*, 1984 elevated healthcare to the federal political agenda. The *CHA* has laid out the institutional framework in Canadian society and it determines who has standing and what they can do.

Development of the a National Health System

The Canadian health system evolved over a number of years, but it reached a national scale involving both the federal and provincial level of government in 1966, with the passage of the *Medical Care Act*. Under this legislation, Ottawa contributed directly to programs that covered the cost of physician services, in addition to continuing funding that was already being contributed towards hospital insurance (Strick, 1999, 31). Under the original agreement, the federal government contributed fifty percent to the cost of hospital and physician services (Veldhuis & Clemans, 2003, 3). This was the prevailing nature of the federal provincial dynamic before the introduction of the *CHA*. The provinces were responsible for the initiation of new programs and Ottawa would assist

¹ The concept of a policy “lock-in” was first articulated by Douglas North. A lock-in situation occurs when the actors are constrained both informally and formally within a particular system and policy options are limited (North, 1990, 68). It is similar to the idea of winset discussed by Tsebelis. Breaking a policy “lock-in” is like moving from one winset to another.

the provinces by paying half the costs. The *Constitution Act, 1982*, as the formal constitution, was still the prevailing institutional structure, and any changes to the system were made in an incremental fashion that did not radically alter the fundamentals of the program. Under the *Medical Care Act*, there were a few key principles, such as universality, and the funding did help to enforce these, although in comparison to the *CHA*, the principles were minor. Some doctors were able to opt out of this scheme, or they were allowed to extra-bill (Wilson, 1985, 356).

In 1977, the federal government switched the way in which it funded social transfers to the provinces from cost sharing programs to block grants. The provinces would now receive a lump sum of money for social programs, rather than a sum of money that was dependent upon the level of provincial money spent (Coyte and Landon, 1990, 818-821). This represented a fundamental shift in the financial aspects of social policy, and specifically health policy, in Canada. The switch to block funding substantially lowered the ability of Ottawa to enforce the principles of the *Medical Care Act* (Boase, 2001 197). It is real situations such as these that should alert you to the subtle nature of control in intergovernmental relations. The federal government had altered the way in which it used its spending power. That change created a direct challenge to the current policy lock in, which was based on the foundation of cost sharing. Provinces began to attempt to replace lost funding under the new EPF (Established Program Financing) funding framework with the introduction of facility fees, and extra-billing (Wilson, 1985, 356). The change in funding allowed for a breakdown in the consensus that largely existed in pre-1977 Canada. The reduction of the use of the federal spending

power forced a reduction in the role that Ottawa was able to play within the existing lock in.

The shifting use of the federal spending power coincided with the movement toward political federalism. This move toward political federalism coincided with the development of new interest or pressure groups. For example, the Friends of Medicare organization was formed in 1979 (Friends of Medicare, 2003). The development of these new groups that attempted to influence the politics was important, as these groups lobbied the political actors rather than working with the bureaucrats on changing the system. The development of distinct health pressure groups coincided (and contributed) with the move toward political federalism as identified by Cairns.

In fact, it is clear that the adoption of the *Canada Health Act* was not a bureaucratic decision, but a decision that was driven by political forces. Monique Begin indicates that when she took over as the federal Minister of Health, the Department was largely ill-informed on issues surrounding user fees and proposed options for reform. There were no clear answers as to how much extra-billing was going on, and where it was occurring. The agreement to exchange information between the provinces and federal government never got off the ground. According to Begin, “the Department was in the dark” about issues surrounding user fees (Begin, 1988, 23). The decision to proceed with the *Canada Health Act* was certainly an initiative at the political level, supported by lobby groups supporting the federal state apparatus, as the bureaucracy did not have the capacity at this point to enforce current legislation, let alone begin to develop new ideas (Begin, 1988, 23). After the passage of the EPF legislation, the

number of bureaucrats responsible for Health Insurance was nearly cut in half, as the department felt that, with block funding, it would not need to enforce the provisions of the *Act* as stringently (Begin, 1988, 23).

The province of Alberta was one of the leading proponents in the fight against the *Canada Health Act*. Dave Russell was Alberta's Minister responsible for hospitals during the debate surrounding the implementation of the *CHA*. He argued that the federal government was trampling on provincial rights and ignoring the constitution (Russell, 1984, 73). Additionally, he argued that the reason for the user fees being imposed was the cutback in federal funding and that the federal government could not throw its weight around in health care without financial support (Russell, 1984, 73). Russell argued that this use of the federal spending power went far beyond any other use of the federal spending power. Its use through the *CHA* was an attempt to control provincial spending priorities (Russell, 1984, 79).

This debate between the federal and provincial levels of government was again taking place at the political level. Most of the debate was not over the technical issues of what actually makes for a better system of delivering health care; rather, it centred on broad principles of federalism and provincial rights. Additionally, the entire conflict had largely been bound up in partisan politics. At this time in Canadian history, Alberta was governed by the Conservative Party, whereas the Liberal Party was in power federally. Furthermore, Alberta was still enraged at the federal government for the National Energy

Program (NEP²) and the effects of that policy contributed to the inflation of the rhetoric used in the debate surrounding the *CHA*.

Adopting the Canada Health Act, 1984

The last step needed to explain the adoption of the *Canada Health Act* is to discuss why the *Canada Health Act* was the solution matched to the problems in the Canadian health system. The first reason is that as federal Minister of Health, brought forward a clear agenda with the support of the federal government. Her own analysis of the situation clearly indicates that she was determined to stop the provinces from allowing extra-billing and charging facility fees (Begin, 1988).

In contrast, to the cohesive nature of the federal government, the provincial governments were not united on this issue. Alberta resisted the federal initiative, but Ontario acknowledged early on in the process that when push came to shove, they would have to concede the doctor's right to extra-bill in order to receive federal money (Fritz, 1984, 12). The provinces did not have the coordination to resist the federal government's initiative, mainly because there was no consensus among the provinces on the issue of user fees. Divided provincial interests are much weaker than the united voice of the federal government, allowing the federal government to direct and control intergovernmental policies.

² The National Energy Program was developed by Ottawa in response to high oil prices. Part of the program involved an attempt to increase the federal share of oil and gas revenues to 25 per cent. Alberta viewed this policy as a direct attack on provincial control of natural resources (Riddell & Morton, 2004, 488-489).

The *Canada Health Act* also enjoyed another significant bonus. It would not anger Quebec. Dealing with the separatist issues in Quebec during this period was perhaps the most pressing issue facing Canada. Trudeau had just patriated the Constitution without the support of Quebec, and was anxious not to provoke them any further. Begin argued that the *CHA* would not anger Quebec because Quebec was not charging user fees and would therefore not be harmed by this legislation (Begin, 1988, 120). In this situation, any particular national vision had to take into consideration the views of Quebec. Politically the federal government knew that the only winset that could work had to include Quebec and thus it was able to tailor its version of the national interest to fit this constraint.

The *CHA* was the only constitutional option available to the federal government. The federal government could not simply pass a law in regards to extra-billing or regulate the compensation paid to doctors, as these matters were clearly in the provincial domain. The only way to influence health policy was to provide federal funding for federal objectives (Begin, 1988, 103-105). As acknowledged by Ontario, the provinces would not be able to resist federal funding and therefore had to concede. Without the ability to produce a unified opposition, the provinces could not counter Ottawa's actions.

Within the field of health policy, interest was also divided. There was a definite split between the doctors and the nurses, with the former preferring the extra-billing and the latter wanting to stop extra billing. Most of the medical profession preferred to be allowed to continue to extra-bill. They felt that they had the right, as did any other

profession, to make money. All physicians tended to have a mixture of self-interest, professional ideology, and free enterprise ideology within them. The particular mix of ideology that each individual doctor had determined whether or not the individual doctor charged user fees (Globerman, 1990, 11-23). On the whole, the Medical Associations were against the *CHA*. It was in the doctors' self-interest to continue charging user fees. The nurses were in line with the federal government and its decision to end extra-billing. This was largely because their immediate self-interest was not hindered by the ending of extra-billing, as they were not allowed to extra-bill for their services (Fritz, 1984, 4). The fact that the medical community was so divided on the basis of self-interest prevented them from presenting a united front. With divergent opinions from the societal structure that supports the provincial state apparatuses, provincial viewpoints were also divergent. As the medical community was divided in their support for the *CHA* so were the provinces. The *CHA* fit with the provincial interest of some provinces but not with the interests of other provinces.

The *Canada Health Act*, however, fit in with the overall ideology of Trudeau's vision of the country and thus fit within the federal interest. The *Canada Health Act* would focus Canadians on a central issue, and unify conditions on programs that would attempt to ensure a similar health system in each region of the country. It meshed well with the concept behind the *Charter of Rights and Freedoms*. Both policies fit Trudeau's attempts to foster a pan-Canadian identity within Canada (McRoberts, 1997). Because the program cut against divergent provincial interests, like the Charter, it would create an attachment to the national interest as embodied by the federal government. If the *Canada*

Health Act succeeded in creating this pan-Canadian interest it would help the federal government implement a national policy.

Federal Influence over Health Policy

The first shift that has occurred is that the federal government has been successful in enforcing national standards on provincial policy areas. The tying of national objectives to national dollars makes it extremely hard for provinces to forge their own united or independent paths. Despite the fact each province operates within their own interpretation of the *CHA*, they still must operate within a framework that has been laid out by the federal government. When federal dollars are available, it is difficult for provinces to turn away from federal funding (Wilson, 1985, 366). The federal spending power is a very important institutional dynamic. The fining of provinces makes it difficult for them politically if they continue to charge user fees. The average tax payer looks at the dollar for dollar fine and discovers that the province loses whenever a user fee is charged. Why, then are citizens forced to pay for the service when the federal government, at least on the surface, appears to be willing to fund the total cost? The provinces, therefore, need the federal money and tend (even if reluctantly) to accept the national standards. The more money that Ottawa gives the provinces, the more say the federal government garners in the operation of the health system (Boase, 2001, 197).

Secondly, there has been institutional change in the actions now undertaken by the provincial governments. The *Canada Health Act* effectively changed the options that were available to provincial governments. The extent to which this has become

institutionalized is quite remarkable. In the early years of the *CHA*, many provinces charged user fees and were penalized by Ottawa for doing so. In effect, according to the annual report of the *CHA* in 1984-1985 (the first year in which the act was effective), seven of the ten provinces were penalized for continuing the practice of extra-billing or for charging user fees. The total amount of money retained by Ottawa equaled approximately eighty-five million dollars (Health and Welfare Canada, 1985, 21). However, the picture has changed radically over the past twenty years. In fact, by the time that the annual report for the year 2001-2002, was published, only one province that was being penalized for charging facility fees. Nova Scotia had \$39,000 withheld for not paying the full facility fees for non-medical abortions (Health Canada, 2002, 11). Clearly, the *CHA* has altered the institutional structure in health policy. User fees and facility fees have been effectively eliminated. The only province that was fined under the *CHA* was fined for abortion fees, which probably had less to do with health policy than with moral choices.

An example of the extent to which the *CHA* has extended federal influence over health policy is the extent to which the province of Alberta operates within the framework. Alberta, as shown above, was the province that put forward the largest resistance to the adoption of the *CHA*. However, under its “maverick” Premier Ralph Klein, Alberta went to great lengths to justify its controversial Bill 11 in terms of the principles of the *Canada Health Act*. Premier Klein, in a letter to an Albertan concerning the introduction of the use of private clinics in Alberta says, “I wish to confirm that the Government of Alberta would not, under any circumstances, approve any health care

related project that contravenes the five principles of the *Canada Health Act*” (Klein, 1996). The Premier, in this letter, assures this citizen of Alberta that the government will not attempt reforms that contravene the *CHA*.

In addition, when Bill 11 was presented to Albertans, the government attempted to show that the *Health Care Protection Act* was within the confines of the *Canada Health Act*. One of the measures that the government took to ensure that Bill 11 was within the framework of the *CHA* was to have an independent legal opinion drafted by Professor Levy from the University of Calgary. He has argued that Bill 11 in no way is in conflict with any of the principles of the *CHA*, nor does it require the government to proceed down a policy road that would lead to further policies that would contravene the principles of the Canadian health care system (Levy, 2000, 2).

All the reform activity that was conducted in Canada during the 1990s consisted of minor changes that were consistent with the overall goals of the *CHA*. This is where most of the study on health policy has been focused. The policy tools are altered but the framework remains the same. The hospital restructuring and the regionalization of health care instituted by most jurisdictions do not pose any real challenges to the framework laid out in the *CHA*. The reforms may have been controversial but they were certainly well within the current framework (Tuohy, 1999, 100-101).

The *CHA* has affectively removed options that were available to the provinces before the implementation of the *Canada Health Act*. The *Act* has become institutionalized through the process of policy learning. The provinces have found that

their exclusive constitutional right to legislate in the field of health care has been modified by the adoption of the *Canada Health Act*. The federal government has been able to extend internal dynamics externally.

The Direct Approach

The federal government also has a profound institutional interest in promoting the idea of more direct federal involvement. The *CHA* establishes a direct link between the federal government and Canadians. This link between the federal government and the people is lacking in most other areas of federal jurisdiction, apart from income security. In the field of income security, it has been argued that this direct link has helped to maintain the *raison d'être* of the federal government. Without direct service links to the people the federal government would lose much of its power (Banting, 1987, 176-178). In the previous chapter, it was argued that the use of direct programs can create a dependency in the population on the federal government for that service. This is clearly the case with health care (as mentioned above), as most people now accept and expect the federal role in health care. This view has been accepted by most citizens of all political stripes, as was witnessed in the 2000 federal election. The federal government has clearly attempted to switch the focus of the *CHA* from an intergovernmental agreement to a direct link to the people of Canada. The official website of the *CHA* explains that the *CHA* aims to ensure that all citizens have access to health care and that the federal government will ensure that this access is upheld (Health Canada, 2004). The *CHA* is important to the federal government as it provides a direct link to the people in the health care, thus helping to expand the power of the federal government.

Additionally, the federal government has another reason for fostering the expansion of individualism in health policy. Because the provinces have constitutional responsibility for the legislative process surrounding health care, the federal government needs to be able to undercut the provinces' legislative ability. The encouragement of the popular initiatives in health care can directly undermine the ability of the legislative body to proceed as it wishes (Tsebelis, 2002, 132). Because of the overlapping of constituencies in the federal system it is logical for the federal government to encourage and foster a citizen focus in health care, since it undercuts the ability of the provinces to legislate, while at the same time, through the *Canada Health Act*, creating a direct link between people and Ottawa in the field of health policy. The federal government is working to enhance the societal forces and interest groups that help to sustain it. By trying to reposition the actors in the field of health policy, Ottawa is attempting to restructure the current lock-in. By fostering actor change, Ottawa can counteract its loss of influence through the decrease in spending.

One piece of anecdotal evidence in regards to the changing nature of the actors is the appearance of the covers of the annual reports of the CHA. In those reports from the early years, 1984-1987, the covers show the seals of the provinces and the seal of the Government of Canada. This clearly symbolizes that the *Act* is meant to be a federal-provincial arrangement. However, the cover for 2000-2002, features pictures of Canadians interacting with the healthcare system. Again, this is another symbol that the focus of health policy is shifting away from provinces and towards people (Health and Welfare Canada, 1984-1985, 1986-1987, and Health Canada 2000-2001, 2001-2002).

Societal Change

In addition to the change in institutions that we have seen, the *CHA* has also altered the values that surround the development of health policy in Canada. An issue of *Doctor's Digest* from 1979 shows that the Alberta Medical Association was a strong proponent for the use of user fees (Editorial, 1979, 1-2). By 1988, however, proposals for reforms focused on other areas of the health care system without a mention of user fees. Specifically, calls for reform were being made in regard to the structure of health care delivery, the technological developments in the field, and the ethics of physicians, but not in regard to user fees (Higgins, 1988, 4-5). Furthermore, an article written in 2001 illustrates that the College of Family Physicians of Canada felt that user fees were not the preferred funding option (Rich, 1519). In another article from the same year, the President of the Alberta Medical Association (AMA) argues that in order to find new sources of funding, we must not limit access to the system, which user fees may have a tendency to do (Cairney, 2001, 1519). Clearly the medical community has changed positions on the place of user fees within the system. This is likely because an entire generation of doctors has been produced within the *CHA* institutional framework (William et al, 1995, 307).

Initially, in response to Ontario's limiting the ability of physicians to charge user fees, there was a doctor's strike in 1986. This was a clear indication of the displeasure that the doctors had for the arrangements in health care (William et al. 1995, 306). In 1982, 38.2 percent of family physicians favoured a return to the pre-public medical system. However, eleven years later the percentage of family physicians supporting a

return to the pre-public system fell to only 15 percent. Furthermore, the number of physicians supporting the privatization of Canada's health care system has fallen from 57 percent in 1982 to only 44 percent in 1993 (Williams et. al 1995, 309). Despite the initial negative reaction to the *CHA* by the medical community, they have undergone a value change. The Medical Associations no longer focus on balance billing (a term physicians use for extra-billing, meaning that they bill the patient for the difference between the actual cost of the service and what the government was reimbursing them) as a tenet of their professional ideology. It has been replaced by a focus on the access to the system and other areas for reform, such as professional ethics and the structure of the health care professions. After the implementation of the *CHA*, the medical lobby has undergone a change of core values, and what the group perceives as its self interest has been altered.

In the Canadian population, there has also been a value change in regard to our health care system. Before the introduction of the *CHA*, about 42 percent of Canadians felt that user fees created a problem for the health care system (Begin, 1988, 29). By the early and mid 1990s, Canadians had fully embraced the principles of the *Canada Health Act*. During the 1988 debates over free trade, it was clear that health care had effectively become a defining element of Canadian identity (Tuohy, 1999, 102). In fact, in 1991, the support that Canadians had for all the pillars of the *CHA* was extremely high, between 80 to 90 percent. Support for private funding was quite low and a majority of Canadians believed that increasing funding would improve the quality of care (Tuohy, 1999, 103). Canadians had clearly embraced the principles of the *CHA* and were extremely satisfied with the system itself. We saw the support for public administration and universality

increase dramatically between the passage of the *CHA* and beginning of the 1990s. This led to the belief that health care as a social trust was a part of the Canadian identity. What had started out as a simple piece of legislation (although as mentioned above, a piece of legislation which fit the model of Trudeau's pan-Canadian identity idea) had now fundamentally altered the framework of Canadian health policy and the value and belief structure of Canadians. The federal government clearly gained an influence over the determination of health policy, because of its ability to articulate and enforce a national interest.

Another clear sign that the *CHA* system of managing health care has been generally accepted comes from the fact that health care became the major issue of concern during the 2000 federal election. Every major party during the election campaign focused on health care. Each of the parties' election platforms indicated that they strongly supported the *CHA* and that it should be maintained and strengthened (Blais et al, 2002, 21-22). In fact, the most important issue to Canadians, during the 2000 federal election, was health care (Blais et al, 2002, 146-147). This contrasts with the influence that Health Care had on the pre *CHA* elections. During the election campaign of 1979, health care and user fees did not even register on the election campaign. In fact, people wondered why Begin would spend her time during the election campaign fighting the provinces as opposed to the Conservatives (Begin, 1988, 29-30). This again shows that the *CHA* system has clearly become locked in. Before the introduction of the *CHA*, health care was not high on the federal agenda during elections. In fact people wondered about the sense of campaigning against the provinces in health care. It was not seen as a federal issue but

as a federal/provincial issue. However, by the time that the 2000 election rolled around, health care had clearly risen to the top of the list of the issues debated. Now the federal parties were debating amongst themselves on an issue that twenty years earlier was not considered a federal issue. The *CHA* clearly secured a place for the federal government in health policy. The new lock-in generated an informal framework in health policy that replaced the constitution as the fundamental framework through which health policy was conducted.

Conclusions

What should become clear from this examination of health policy is the strength of the federal government's spending power when coupled with a clear national vision. Through a change in how the federal government used the spending power, the very policy dynamics that surrounded health policy changed. The use of the federal spending power allowed the provinces to exchange more room to maneuver for a loss of money. The federal government, then, is clearly capable of directing policy in areas not formally allotted to them.

By fostering a direct relationship with the citizens on this issue the federal government is able to challenge the province's ability to claim that they are the sole conveyors of provincial interests. The fiscal imbalance means that provinces need federal money and once federal funding is attached to the program, provincial areas of sole jurisdiction fall under the influence of the federal government. The federal government still needs the provinces to implement objectives, like those laid out in the *Canada Health Act*. Situations, such as the adoption of the *CHA*, clearly show us how the federal

spending power allows the federal government to gain substantial influence despite a lack of formal responsibility for a particular policy area.

Despite the increase of federal influence being presented as a *fait accompli* thus far, provincial governments have begun to respond to the federal government. In response, the provinces have developed the Council of the Federation. The next chapter explores the potential influence that the Council of the federation will have on intergovernmental relations.

Chapter 7: The Council of the Federation

As we have seen, together the national interest and the enforcement aspect of the federal spending power have allowed the federal government to gain influence over provincial areas of jurisdiction. Despite the increased interference of the federal government, the provinces fundamental nature has not changed. Provinces, as is their nature, continue to act in a protectionist fashion. In response to this increased federal influence, Canadian provinces have joined together to create the Council of the Federation.

The Council of the Federation

The Council of the Federation has been designed to be a collaborative body that will reshape intergovernmental relations in Canada (Canadian Intergovernmental Conference Secretariat, 2003, 1). The Council consists of the thirteen Premiers in Canada, and meets on a bi-annual basis (Munroe, 2003, 1). The Council of the Federation has the potential to become a very important institution within Canadian intergovernmental relations. In order for the provincial view point to best be expressed, a mechanism of collaboration needed to be created (Kent, 2004, 5). Alberta Premier Ralph Klein believes that the key to the success of the Council of the Federation is that provinces and the territories are presenting a united front against the federal government (CBC, 2004, 2). If, through the Council, the provinces are able to overcome their collective action problems, then the potential exists for a new dynamic of interstate

federalism to be realized. By working together, the provinces have the potential to articulate an alternative national vision to the federal government's national vision. Due to overlap of representation that occurs in intergovernmental relations, the Council of the Federation has the potential to stake an equal claim on a national vision. Although individually each province is unable to articulate a national vision, collectively the Council can present a viable alternate to the national interest represented by the federal government. An alternative national vision, then can work to undercut unwanted use of the federal spending power. Any use of the federal spending power accepted by the Council of the Federation would endorse its version of the national vision rather than having the federal spending power enforce a federal vision. To place the Council in terms of Tsebelis's work, the Council has the potential to allow the provinces to better understand the arrangement of various winsets and select the preferred option from within that winset, rather than allow the federal government to select its preferred option and then enforce it with the federal spending power.

The agenda setting power currently held by the federal government would be reduced by the Council. Rather than the federal government being able to pressure provinces into accepting less beneficial or more restrictive agreements, the provinces have the potential to turn the table on the federal government, claiming that the federal is not willing to respond a national consensus on a particular issue.

Cartelization of the Council of the Federation

When examining the Council of the Federation, it becomes clear that not only is the Council of the Federation a response to federal intrusion but it is an institutionalized response. In forming the Council of the Federation the premiers have created a political cartel.

In the most common form of cartel, an economic one, a cartel is defined as a situation where the sole producers of a good get together and attempt to limit production of that good (Lipsey, et. al, 1997, 260-271). Within the Council, the sole good that the producers (provinces/premiers) produce is alternative national vision. The use of interstate federalism and the associated centralization of power have meant that the provinces are the only way for regional interests to be expressed. Together these sole conveyors of regional interests band together in order to produce a single and coherent national vision. In terms of limiting competition, the only real competition that is faced by the Cartel comes from the federal government. As outlined above, the Council has been developed in direct response to the actions/inactions of the federal government, with the expressed purpose reasserting provincial control over areas of provincial jurisdictions. By articulating an alternative national vision, the Council can limit the ability of the federal government to claim that it is acting in the national interest and limit the effectiveness of federal enforcement powers. An express part of the Council's role is to limit competition in areas of provincial jurisdiction from the federal government.

The Effect on Intergovernmental Relations

The Council has the potential to allow the provinces to develop an alternative national vision. The key question that remains to be answered is whether or not the Council will be able to succeed in limiting the ability of the federal government to direct intergovernmental relations and influence areas of provincial jurisdiction.

The answer to this question is both yes and no. On the surface, the development of the Council seems to be very constructive. The provinces have pledged to work together in order to raise provincial issues at the national level and to support inter-provincial cooperation (Council of the Federation Founding Agreement, 2003, 1-2). The provinces are attempting to identify areas in which they can make effective changes by working together (Canadian Intergovernmental Conference Secretariat, 2003, 1). The Council creates the necessary institutional framework allowing the provinces to work together and be an effective counter to Ottawa.

There is a possibility that this institution will be effective. By working together, the provinces have the opportunity to counter Ottawa more effectively. If the provinces are able to function as a cohesive body, they may be able to more effectively counter expansive national visions articulated by the federal government. If they can agree to allow an individual province to be a policy innovator, the power of the provinces to contest federal policy preferences will be enhanced. If they work together and agree not to undercut each other, then policy initiation at provincial level will be enhanced. If the provinces work together then the power of the federal government would be limited as it would now have one strong competitor as opposed to thirteen weaker ones.

Another important consideration in regard to the Council of the Federation is the existence of a permanent secretariat in Ottawa (the institutional part of the province's response to the federal government). Alberta's former International and Intergovernmental Relations Minister, Halvar Jonson was questioned in the Alberta legislature about what differentiated the Council from other attempts by the provinces to work cooperatively. The Minister responded by saying that the presence of a permanent secretariat was the key difference that would make the Council more viable than its predecessors. The secretariat gives the provinces an important voice on the ground in Ottawa, and a permanent voice (Jonson, 2004, 757). The creation of an institution to help solve coordination problems is important. The lack of such an institution has aided the federal government in shaping the country according to its vision of Canada (Pelletier, 2004, 3). Without rules and an institutional framework, the provinces had no incentive to coordinate, and were more fully exposed to the federal government's ability to exploit veto points. The creation of formal rules provides an incentive for cooperation. As was mentioned in earlier chapters, the nature of intergovernmental relations required each province to engage in a state building process. In turn, the nature of intergovernmental relations means that a province required a strong executive to represent the province's interests and control this powerful state apparatus. As a single entity, the federal government faced few if any coordination problems in attempting to function within Canada's interstate federal system. By establishing a bureaucracy around the Council, the provinces are engaging in a type of state building. Just as each province has built its own state apparatus, the provinces are now combining to create a unified

state apparatus that will help them to overcome their coordination problem. The bureaucracy of the Council gives the provinces a central coordinating body through which to advance their interests. With a minimized coordination problem, the provinces would be able to function as a cohesive unit, minimizing their exposure to potential veto points. The energy level required for the provinces to remain united is reduced by the presence of a permanent body.

The presence of the provinces in Ottawa further enhances the power of the provinces to influence federal action, helps ensure that the provinces have the ability to place issues on the national stage, and represents a substantial step forward in intergovernmental relations.

The key, however, to the above statements is the provinces' ability to cooperate. Each government is still centralized and, therefore, runs the potential under this new framework of being consumed by immediate provincial interests and failing to look at long-term policy concerns. The provinces themselves have institutionalized the potential for a cartel within the Founding Agreement of the Council.

All actions undertaken by the Council need unanimous consent (Peach, 2004, 3). This provision is most likely to pose significant challenges for the Council. Internal Council dynamics are important in how the Council will function (Brown, 2004, 7). Requiring unanimous consent allows for the cartel problems of previous eras to be brought into the Council, likely hampering any potential progress that the Council could make. If the Council is to be most effective, not all decisions should require consensus.

Some policies could be left to a majority (even a qualified or two-thirds majority), as is done in the Council of the European Union.

Implementing a form of co-decision into the process will help the provinces to overcome their coordination problem (Burelle, 2004, 6). This change would allow for the Council to be much more functional, because it removes some of the pitfalls of cartel dynamics and allows for a coordinated approach. With the loosening of the unanimity requirement, the provinces would more easily be able to collectively replicate their internal policy dynamics externally. It is important to note that even if the unanimity requirement is not loosened the Council is still posed to assist the provinces in overcoming the coordination problem. The presence of the unanimity provision limits the choices of acceptable winsets available to the provinces. Because all provinces must agree, there are fewer (some would argue if any) articulations of the national interest to which all provinces can agree.

In an unreformed system, the centralization of power within each province's executive likely prevents the possibility that any provincial government (especially that of Quebec) will surrender its veto over collective provincial action. Quebec signed on to the agreement of the Council of the Federation. In fact, the creation of the Council was initially proposed by Quebec Premier Jean Charest (CBC, 2004, 1). Why would Quebec suggest a body that would seemingly limit its ability to engage in traditional intergovernmental strategies? Successive Quebec Premiers have created careers based on the current dynamics in intergovernmental relations. As discussed earlier, in a cartel system, the holdout has tremendous power. Throughout most intergovernmental

negotiations, Quebec has refused to sign (as with the Constitution, SUFA and the national child care agreement) or has forced concessions (as with Meech Lake) before it would sign. The downside to continually being the holdout province is it looks like a scapegoat. Therefore, Quebec joins the Council in hopes of protecting its holdout status, drawing the rest of the provinces in line with its position and then pushing for a little extra. From the Council, Quebec seeks a forum through which its provincial rights will be protected by allowing it to choose its own path, while having the rest of provinces not undercut its position. It is the hope of Quebec that the Council will allow the national interest to better reflect the interests of Quebecers than they perceive the federally defined national interest has. It is important for the Council to allow individual provinces to innovate and show that the Council is not attempting to force conditions upon provinces, but rather the Council is trying to present a united provincial front. Quebec is highly unlikely to ever surrender its veto power with the Council of the Federation (Burelle, 2004, 5). The current intergovernmental system will prevent Quebec (and possible other provinces) from ever moving towards a more consensual decision making process within the Council. It would be political suicide for any Quebec Premier to be seen as surrendering their control over Quebec sovereignty. The local bureaucracy and societal structures that the current system of intergovernmental relations encourages, creates and sustains would rebel against such a reform. The Council will need to find a way past this road block if it is to be successful in creating a new system of intergovernmental relations.

Some may believe that it will eventually be possible for the provinces to move to a more consensual system, as the Europeans, through the EU were able to look beyond

history and move forward. This is true and the process has taken some time. However, in Canada, Quebec only perceives that there are two nations and fears that English Canada will swallow up Quebec. The local internal dynamics, in this case, may prevent the Council from reaching its potential. The same factors that led to its creation may lead to its downfall.

Only democratic reform within the Council will truly allow the Council of the Federation to reach its full potential. In its current form, it is still susceptible to the problems that have always haunted intergovernmental relations. In the recent health accord (2004), Quebec was able to acquire an asymmetrical deal, which in the short run was a victory against federal control, but in the long run leads away from the goals of the Council and back toward a coordination problem. If every province strikes its own deal, then the federal government will be right back at the same point of being able to strategically exploit veto points through the spending power. Quebec's hold on a traditional veto may ultimately neuter the effectiveness of the Council. The federal government, if acting in a rational manner, would encourage an asymmetrical federalism as it allows them to have the upper hand.

The Council may be able to overcome some of these problems by adopting a voting system similar to that of the EU. By requiring unanimity on some matters and allowing for qualified majorities on other non-cultural matters, Quebec may accept something other than consensus decision making (Burelle, 2004, 5). This compromise would render the Council more effective than its current form, but still less than its potential.

Another goal of the Council of the Federation is to attempt to reduce the fiscal imbalance (Council of the Federation, 2003), but this is unlikely to be effective because of continuing problems with the democratic element. Without democratic reform, the federal government will still see the opportunity to use the spending power exploit divisions among the provinces. Any potential solutions that may arise under this situation will not necessarily represent the provincial national vision. As previously mentioned the federal government has had no desire to discuss an escalator clause in transfer payments. The provinces will still be subjected to coordination problems, be unable to mount an effective opposition to the federal government and be unable to pressure the government to actually address the fiscal imbalance.

2004 Health Accords

During the discussions around the 2004 federal-provincial health accords the provinces were able to stick together as a team throughout the entire process of the negotiations, came much more carefully prepared than the federal government and were able to extract concessions from the federal government. The provinces had formed a tight agreement through their work in the Council of the Federation and were able to present a united front (Fraser, 2004, 2). Federal Health Minister, Ujjal Dosanjh identified that the federal government's priorities going into negotiations the were "addressing waiting times, improving access to health professionals, ensuring coverage for catastrophic drug costs, providing accountability in the health system and ensuring the financial sustainability of the system" (Sibbald, 2004, 2). The top priority of the federal government was not pharmacare, but waiting lists (Sibbald, 2004, 2). The Premiers,

through the Council of Federation developed a national pharmacare plan that would see the federal government pay for most drugs in Canada. This idea was quickly refused by Prime Minister Paul Martin and the federal government (Baxter, 2004, 1). The stiff rejection of the Council's proposal by Ottawa initially caused some dissensions within the Council (Lindgren, 2004, 1); however the tension was overcome and the Premiers were able to maintain a united front throughout the discussions.

An examination of the deal struck by the premiers and the prime minister shows clearly that the Council of the Federation had an impact on the negotiation and the resultant deal. The Council was able to achieve its paramount goal of keeping the provinces unified. The provincial counter offer was an important show of solidarity and demonstrated the resolve of the provinces. As a result of this counter-proposal Prime Minister Paul Martin was unable to completely control the agenda and instead was forced to listen to the premiers (Ibbitson, 2004, A4). The federal strategy had been to make a financial offer before the conference, including money for health care and equalization. They were hoping for the offer to be generous enough to win support of the "have-not" provinces (Clark, 2004, A5). Equalization has always been a divisive subject that the provinces disagree on as it tends to divide the "have" and the "have not" provinces. The Premiers' counter-proposal during the conference left one senior federal official "stunned" (Clark, 2004, A5). The federal government was unable to use the spending power to fracture provincial coordination. It was the ability of the Council to maintain provincial unity that allowed the provinces to succeed during the meetings. The Council structure was key in maintaining provincial unity. Without the Council's ability to help

the provinces overcome their coordination problem, their resolve would likely have faltered. The Council provided the necessary medium for the provinces to coordinate, i.e. share information and strategize (Ibbitson, 2004, A4).

The Council of the Federation has allowed the provinces to control the agenda at the intergovernmental level, something that the federal government has long been able to do. Before the September health summit federal Health Minister Dosanjh went to Council's meetings. This not only conferred legitimacy on the Council's existence but set the precedent of the federal government attending a meeting as a guest of premiers, rather than the traditional method of the provinces attend at behest of the federal government (Ibbitson, 2004, A4).

Another element that the provinces hoped to achieve in the agreement was more policy control. As was shown in the last chapter, throughout the history of health policy, the federal government has been attempting to gain control over health policy. In the first health deal in a significant period, the provinces regained somewhat their control over health policy. The agreement called for all provinces to begin a new homecare agreement and to eliminate user fees they now charge. The key to this, from a provincial point of view, however, was that if the province continues to charge user fees or fails to develop a homecare program, there is no financial penalty and federal money will continue to go to the provinces (Walkom, 2004, 14). Consequently, the provinces are able to create whatever measures they see fit. In terms of eliminating waiting lists, a key federal goal, the provinces only had to agree to general guidelines. There are no strong enforcement mechanisms to compel the provinces to meet these targets (Walkom, 2004, 14). In regard

to the *CHA*, the provinces also have succeeded in limiting its application. Before the federal government applies the *CHA*, a dispute between the federal government and the provinces will go to an independent arbitrator. This is an extension of the deal that Ottawa made with Alberta in 2002 (Walkom, 2004, 14). Without the sanctions of the *CHA* readily at their disposal, the federal government is weakened in its ability to enforce its policy objectives in health care.

The new health deal reached in September 2004 reasserts some provincial control over health policy. By presenting a united front, the provinces have been able to regain more control over the direction of health policy. The previous chapter outlined how the federal government had been able, through its use of the spending power to implement the national interest, to gain influence over the direction of health policy. Despite the initial success of the Council of the Federation, one must hesitate before becoming overly optimistic at the chances for success of the Council. Seeds of discontent were sown into the recent health agreement. The provinces were able to wrestle some control away from Ottawa, but the final agreement was much closer to the Liberal election platform than it was to the Council's original proposal. In the election of June 2004, the Liberals promised \$3 billion in increased transfers, \$4 billion over five years to reduce waiting lists and \$2 billion for homecare in addition to agreeing to discuss inflationary costs. The total of the election promises was \$9 billion (mapleleafweb.com, 2005, 3).

The health care deal reached with the provinces included the following: \$3.5 billion in increased transfers, \$4.5 billion over six years to reduce waiting lists, \$0.5 billion for homecare and \$9.5 billion in inflation costs (mapleleafweb.com, 2005, 3). This

is much different than what the premiers had requested and is very similar to what the Liberals had promised in their election platform. The provinces were successful in remaining united and managed to negotiate a large concession from the federal government on inflationary costs; however, the structure of the deal revolved around Prime Minister Martin's priorities and not those brought forward by the provinces. The provinces, going into the summit, wanted a national pharmaceutical program and walked away from the summit with a watered down national drug strategy that was in line with promises that Mr. Martin had made during the election campaign (mapleleafweb.com, 2005, 2) The health deal is a step in the right direction for the provinces, but it is certainly not a great leap forward.

The federal government was able to partially divide the unity of the provinces by concluding an asymmetrical deal with Quebec. Side deals form an important part of the coordination problem and encourage the cartel dynamic that has prevailed in intergovernmental relations in the past three decades. The granting of a side deal to Quebec left some provinces wanting a separate side deal for their province (Clark and Seguin, 2004, A4).

In fact, in order for any deal to be reached at all, asymmetrical discussions were required. On the final day of scheduled meetings, the Paul Martin held a private meeting with four premiers, including Jean Charest. During this meeting, which Martin referred to as the "last chance" to reach a deal, the five first ministers were able to reach an agreement in principle (mapleleafweb.com, 2005, 3). It was this type of backroom negotiating that was needed to reach an agreement and that led Danny Williams, the

Premier of Newfoundland, to refer to the entire conference as “farce”

(mapleleafweb.com, 2005, 3)

As asymmetrical deals become the norm, the incentives to cooperate are reduced as each province is undercutting the other. The reason for concluding a separate deal is the belief that one’s province can get more from Ottawa individually than it could by staying united with the other provinces. The potential limiting of such side deals to Quebec comes with both pros and cons. On the positive side, if limited to Quebec, side deals may have less of an impact on provincial unity, as the distinct society argument can be made. In addition, Quebec often played the role of the holdout previously, reducing the ability of provinces to act in a coordinated fashion. With Quebec in the fold there is likely to be greater coordination among the provinces.

On the other hand, if asymmetrical deals are confined to Quebec, other provinces may start to complain, which would begin to neuter the Council of the Federation. After the health accord, both British Columbia and Alberta had reservations about the side deal and Alberta insisted that future deals be made available to all provinces (Clark, 2004, A4). The problem with Alberta’s assertion is that wanting asymmetrical provisions for all has the potential to undercut the work that the Council is doing and return intergovernmental relations to a situation where the federal government is able to divide the provinces through the use of the spending power. The Hon. Jeannot Volpé, the Minister of Finance for New Brunswick commented that the recent offshore accords that federal government signed with Newfoundland and Labrador and Nova Scotia outside of the Equalization Program, have actually increased the disparities intended to be reduced

by equalization. She also believes that these deals have encouraged other provinces to seek one-off deals with the federal government (Volpé, 2005, 3). Consistent use of asymmetrical deals has the potential to undermine the efforts of provinces to overcome their coordination problem which could lead to further entrenching of federal fiscal superiority. Short sightedness has the potential to lead to the long-term downfall of the provinces.

Conclusions

The Council of Federation has the power to usher in a new era of intergovernmental relations. The Council has the ability to allow the provinces to band together and solve (at least partially) their coordination problem and limit the ability of the federal government to claim that they represent the national interest. The Council, speaking all premiers could also lay claim to speaking to the national interest. This would help to protect provincial claims that they are the sole producers of regional interests. Given the lack of intrastate federalism the Council's challenge to the federal government position could be quite strong. By resolving the coordination problem, the Council and by extension the provinces can continue to act as the sole conveyor of regional interests. It is important to note the similarities of the internal dynamics of the Council of the Federation.

The key to this suggestion is that the Council needs to prove itself to be reasonably competent. As indicated earlier in this chapter, the initial results generated by the Council indicate that there is a very real possibility that it will achieve competency. If provinces see that their interests are best served through the Council process, the

incentive to cheat is diminished. Each of the provinces would be compelled to work with the Council, because they know that if they operate outside of the Council, the dynamics favour the federal government. However, if the work within the Council, they can solve the coordination problem which would lead to more wins at the First Ministers' table, which would help insulate their position as sole conveyer of provincial interests. The incentive dictates that it is better for the provinces to operate within the Council than operate along outside of the Council structure.

Chapter Eight: Conclusions

This thesis set out to examine how the federal government has been able to gain influence over areas of sole provincial jurisdiction. It has become clear that the federal government has been able to gain influence over areas of provincial jurisdictions for two reasons. First, the nature of intergovernmental relations indicates that only the federal government is able to articulate a national interest. This ability to articulate a particular national interest from the many possible national interests allows the federal government to set the intergovernmental agenda and select winset positioning that reflects as closely as possible its optimal preference. The second reason that federal government has been able to influence areas of provincial jurisdiction is that through the federal spending power, the federal government has the ability to implement/enforce the national interest that it has defined. It is the interplay of these two factors that leads to the federal government gaining a role to play in areas of provincial jurisdictions.

Together, these two factors allow us to explain how Savoie could observe that prime ministers and premiers are neither equal nor subordinate and why the diplomatic theory is unable to adequately explain how the nature of intergovernmental relations affects intergovernmental relations. One of the main premises of the diplomatic theory is that provincial and federal governments are co-equal. While there is strong Constitutional evidence for this conclusion, the above factors undermine the co-equality of the provinces and the federal government. In international relations, all parties are speaking on behalf of distinct groups of people. However, in intergovernmental relations while the provinces speak on behalf of separate constituencies, the federal government speaks on behalf of all citizens. In intergovernmental relations then there is a clear overlap of

interests. This allows the federal government to examine all of the differing regional interests before articulating a national interest based on its preferred national majority.

Secondly, international relations do not contain an enforcement mechanism that is as effective as the federal spending power. The enforcement mechanism in Canada is so effective because of the overlap of representation between the federal government and the provincial governments. Federal spending allows the federal government to alter provincial spending priorities and allows the federal government to enforce the national interest that it articulates. Health care is an excellent example of this. Constitutionally a provincial responsibility, the federal government has carved out a role for itself by using to its spending power to enforce its national vision for health care as laid out in the *Canada Health Act*.

These factors reduce the co-equal status of the provinces that the diplomatic theory of federalism requires. With the federal government being able to enforce the national interest as it has defined it, the provinces co-equality is reduced making the diplomatic theory a less accurate depiction of intergovernmental relations. However, despite the federal government increased influence, they have not, nor are they likely to become subordinate to the federal government. The federal government, although it articulates the national interest and can enforce that interest, still requires the provinces to implement that interest. Thus, the provinces are neither co-equal, nor subordinate. In other words, premiers are not subordinate to the prime minister nor are they truly his or her equal.

It has been mentioned that perhaps the diplomatic theory could perhaps explain the relationship between the provinces and not relations between the provinces and Ottawa. Provinces articulate distinct interests and there is no effective enforcement mechanism (like the federal spending power) in relations between the provinces. While relations between provinces may appear to resemble international relations, the diplomatic theory does not explain the evolution of the Council of the Federation, an intergovernmental cartel.

The Council was developed in direct response to the increased influence over areas of provincial jurisdiction that the federal government has increasingly exhibited. By joining together the provinces are attempting to articulate an alternative national interest to the federal government's articulate national interest. If the Council is able to articulate an alternative national interest, then it becomes more difficult for the federal government to enforce its preferred national interest. The nature of intergovernmental relations predicts that provinces will attempt to defend their jurisdiction and the creation of the Council is a clear attempt to limit federal intrusion. The diplomatic theory would not have predicted that such an event would occur. In international relations you do not see a situation where if the Member States of the European Union were unhappy about the intrusion of the European Union on their domestic policies, they would form an alternative body with the explicit mandate to articulate an alternative European interest.

By explaining how the federal government is able to enforce its defined national interest we gain a unique insight into the nature intergovernmental relations. It has become clear that the diplomatic theory of intergovernmental relations does not

adequately describe intergovernmental relations in Canada. With the Council of the Federation, we definitely appear to be entering a new era where there is likely to be two defined versions of the national interest competing with each other. While complete effect of the Council of the Federation is not yet understood, it is clear that Canadian intergovernmental relations have moved further away from the conditions which allowed Simeon to conclude that intergovernmental relations resembled diplomacy.

In conclusion, the nature of federalism in Canada creates a situation where only the federal government is able to articulate the national interest. This fact, combined with the federal government ability and willingness to enforce this national interest through the spending power have allowed the federal government to gain increased influence over provincial jurisdictions. In response to this reduction in autonomy, the provinces have banded together in an attempt to limit federal intrusion, as would be predicted by the nature of intergovernmental relations. While it is unsure as to how effective this provincial action will be, it appears that Canadian intergovernmental relations are entering a period quite distinct from Simeon's description of intergovernmental relations.

Bibliography

- Adams, Duane, "Social Union Study of the Canadian Health System: Introduction and Overview" in Duane Adams ed., *Federalism, Democracy and Health Policy in Canada*, (Institute of Intergovernmental Relations, McGill-Queens University Press: Kingston) 2001 pp. 1-16.
- Adams, Duane, "Canadian Federalism and the Development of National Health Goals and Objectives" in Duane Adams ed., *Federalism, Democracy and Health Policy in Canada*, (Institute of Intergovernmental Relations, McGill-Queens University Press: Kingston) 2001 pp. 61-106.
- Atkinson, Michael and Paul G. Thomas "Studying the Canadian Parliament" in *Legislative Studies Quarterly* Vol 18: No. 3 (Aug. 1993), pp. 423-451.
- Aucoin, Peter, Jennifer Smith and Geoff Dinsdale *Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Change* (Canadian Centre for Management Development: Ottawa) 2004.
- Aucoin, Peter, "The Prime Minister and Cabinet" in Robert M. Krause and R. H. Wagenberg eds., *Introductory Readings in Canadian Government and Politics 2nd Ed.*, (Copps-Clark: Toronto) 1995. pp. 169-192.
- Augustine, Hon Jean, "Reports on the New Health Care Renewal Accord" (February, 2003 accessed at www.jeanaugustine.com/pdfs/health_accord/healthcare%20History.pdf on, Dec. 4/03.
- Bakvis, Herman and Grace Skogstad "Canadian Federalism: Performance, Effectiveness, and Legitimacy" in Herman Bakvis and Grace Skogstad eds., *Canadian Federalism: Performance, Effectiveness and Legitimacy* (Oxford University Press: Toronto) 2002 pp. 3-23.
- Banting, Keith *The Welfare State and Canadian Federalism 2nd Ed.*, (McGill-Queen's University Press: Kingston) 1987.
- Barker, Paul, "Disentangling the Federation: Social Policy and Fiscal Federalism" in Martin Westmacott and Hugh Mellon eds., *Challenges to Canadian Federalism* (Prentice Hall: Scarborough) 1997 pp.157-170.

- Begin, Monique, *Medicare: Canada's Right to Health*, translated by David Homel and Lucille Nelson (Optimum Publishing International: Ottawa) 1988.
- Bernier, Gerald and David Irwin "Fiscal Federalism: The Politics of Intergovernmental Transfers" in Francois Rocher and Miriam Smith eds., *New Trends in Canadian Federalism 1st Ed.*, (Broadview Press: Peterborough) 1995 pp. 270-287.
- Blais, Andre, Elisabeth Gidengil, Richard Nadeau, and Neil Nevitte *Anatomy of a Liberal Victory: Making Sense of the Vote in the 2000 Canadian Election* (Broadview Press: Peterborough) 2002.
- Boase, Joan Price, "Federalism and the Health Facility Fees Challenge" in Duane Adams ed., *Federalism, Democracy and Health Policy in Canada*, (Institute of Intergovernmental Relations, McGill-Queens University Press: Kingston) 2001 pp. 179-206.
- Boase, Joan Price, "Federalism and Federal-Provincial Relations" in Robert M. Krause and R. H. Wagenberg eds., *Introductory Readings in Canadian Government and Politics 2nd Ed.*, (Coppes-Clark: Toronto) 1995 pp. 151-168.
- Boychuck, Gerard W. "The Illusion of Financial Unsustainability of Canadian Health Care" in *Policy Options* Vol. 22: No. 11 (November, 2002) pp. 22-26.
- Boychuck, Gerard W. "Federal Spending in Health: Why Here, Why Now?" in G. Bruce Doern eds *How Ottawa Spends 2002-2003: The Security Aftermath and National Priorities* (Oxford University Press: Toronto) 2002 pp. 121-136.
- Brock, Kathy L., "The End of Executive Federalism?" in Francois Rocher and Miriam Smith eds., *New Trends in Canadian Federalism 1st Ed.*, (Broadview Press: Peterborough) 1995 pp. 91-108.
- Brown, Douglas M., "Fiscal Federalism: The New Equilibrium Between Equity and Efficiency" in Herman Bakvis and Grace Skogstad eds., *Canadian Federalism: Performance, Effectiveness and Legitimacy* (Oxford University Press: Toronto) 2002 pp. 59-86.
- Brown, Douglas M., "Getting Things Done in the Federation: Do We Need New Rules for an Old Game?" assessed online at <http://www.irpp.org/miscpubs/archive/federation/brown.pdf>, on July 13, 2004.
- Burelle, Andre, "The Council of the Federation: From a Defensive to a Partnership Approach" assessed online at <http://www.irpp.org/miscpubs/archive/federation/burelle.pdf>, on July 13, 2004.

- Cairney, Rich, "AMA: Set Standards Not User Fees" in *Canadian Medical Association Journal* assessed online at < <http://www.cmaj.ca/cgi/reprint/165/11/1519-a.pdf>> on Nov. 9/03.
- Cairns, Alan C. "The Governments and Societies of Canadian Federalism" in *Canadian Journal of Political Science* Vol. X: Num. 4 (December, 1977) pp. 695-725.
- Cairns, Alan C. *From Interstate to Intrastate Federalism in Canada* (Institute of Intergovernmental Relations: Kingston) 1979
- Cameron, David and Richard Simeon "Intergovernmental Relations and Democratic Citizenship" in Guy Peters and Donald J. Savoie eds., *Governance in the Twenty-first Century: Revitalizing the Public Service* (McGill-Queen's University Press: Montreal) 2000 pp. 58-118.
- Canadian Broadcasting Corporation, "Provinces plan 'historic' change to federation" July 11, 2003 assessed online at http://www.cbc.ca/stories/2003/07/10/premiers_030710 on January 16, 2005.
- Canadian Broadcasting Corporation, "Council of the Federation" (CBC News Online) February 24, 2004 assessed online at <http://www.cbc.ca/news/background/cdngovernment/councilfederation.html> on January 16, 2005.
- Canadian Intergovernmental Conference Secretariat, *News Release: Premiers Create the Council of the Federation* accessed at www.scics.gc.ca/cinfo03/850095004_e.html, assessed on March 26, 2004.
- Chen, J, F. Hou, C. Sanmartin, C Houle, S. Tremblay and J.M. Berthelot "Unmet Health Care Needs" in *Canadian Social Trends* No. 67 (Winter, 2002) pp. 18-22.
- Clark, Campbell "Brinksmanship nearly scuttled health deal" in *The Globe and Mail* September 18, 2004 pg. A5.
- Clark, Campbell and Rheal Seguin "Medicare deal signals PM's new federalism" in *The Globe and Mail* September 17, 2004 pg. A1 & A4.
- Cohen, Michael D., James G. March, Johan P. Olsen; "A Garbage Can Model of Organizational Choice" in *Administrative Science Quarterly*, Vol. 17: No. 1 (March, 1972) pp. 1-25.

Conference Board of Canada, *Understanding Health Care Cost Drivers and Escalators*. (Conference Board of Canada: Ottawa) 2004.

Council of the Federation, *Council of the Federation Founding Agreement*, accessed at www.scics.gc.ca/cinfo03/850095003-e.pdf, assessed on March 26, 2004.

Coyte, Peter C. and Stuart Landon "Cost-Sharing versus Block-Funding in a Federal System: A Demand Systems Approach" in *The Canadian Journal of Economics*, Vol. 23: No. 4 (November 1990) pp. 817-838.

Creamer, Brian, *Canadian Federalism: Its Changing Nature* (Library of Parliament Backgrounder, Research Branch) Nov. 1984.

Department of Finance Canada, "Equalization Program" assessed at <http://www.fin.gc.ca/FEDPROV/eqpe.html> on March 17, 2006.

Department of Finance Canada, "Glossary" assessed at http://www.fin.gc.ca/gloss/gloss-c_e.html#cht on March 17, 2006.

Department of Finance Canada, "Federal Transfers to Provinces and Territories" assessed at <http://www.fin.gc.ca/FEDPROV/mtpe.html> on March 17, 2006.

Department of Finance Manitoba "Budget Paper C: A New Focus on Fiscal Relations" assessed at <http://www.gov.mb.ca/finance/budget06/papers/fiscal.pdf> on March 6, 2006.

Dobell, Peter "The obstacles to Empowering MPs and MLAs and What It Would Take To Empower Them" in Gordon Gibson eds., (Fraser Institute: Vancouver) 2003 pp. 83-96.

Doren, Bruce G. and Richard Phidd "The Canadian Political Economy and Core Institutions," in James John Guy ed *Expanding Our Political Horizons: Readings in Canadian Politics and Government*, (Harcourt Brace Canada: Toronto) 1997 pp. 139-146.

Ecumenical Health Care Network "A National Health Council: Fact Sheets on Key Health Care Issues" assessed online at <http://www.ccc-ccc.ca/english/downloads/HealthCouncil.pdf>. on July 23rd, 2004.

- Editorial, "Balance Billing" in *The Alberta Doctors' Digest* Vol. 4: No. 3 (March, 1979) pp. 1-2).
- Environics Research Group "New Survey: Canadians want Health System to Change" (October 17, 2002) assessed at <http://erg.environics.net/news/default.asp?aID=501> on Nov. 9/03.
- Esmail, Nadeem and John R. Graham, "Extending Government Monopoly Health Care: The Romanow Report" in *Fraser Forum* (January, 2003) pp. 29-32.
- Fierlbeck, Katherine "Cost Containment in Health Care: The Federalism Context" in Duane Adams ed., *Federalism, Democracy and Health Policy in Canada*, (Institute of Intergovernmental Relations, McGill-Queens University Press: Kingston) 2001 pp. 131-178.
- Friends of Medicare, *About the Friends of Medicare* <http://www.friendsofmedicare.ab.ca/about.htm> assessed on Nov. 25/2003.
- Fritz, Helen *Responses to the Canada Health Act, Current Issue Paper #29*, (Legislative Research Service: Toronto) November, 1984.
- Globerman, Judith, "Free Enterprise, Professional Ideology, and Self Interest: An Analysis of Resistance by Canadian Physicians to Universal Health Insurance" in *Journal of Health and Social Behavior*, Vol. 31: No. 1 (March, 1990) pp. 11-27.
- Hall, Peter A., "Policy Paradigms, Social Learning and the State" in *Comparative Politics* Vol. 25: No. 3 (April: 1993) pp. 275-296.
- HEAL "Submission to the Royal Commission on the Future of Canada's Health Care System, Reconfiguration and Renewal: Ideas and Options for the Future of Canada's Publicly Funded Health Care System" (October, 2001) assessed at http://www.cchse.org/HEAL/romanow_sub_oct_2001.pdf on Dec. 4/03.
- Health Canada, *Canada Health Act*, assess online at < <http://www.hc-sc.gc.ca/medicare/home.htm> > on July 24th, 2004
- Health Canada, *2001-2002 Canada Health Act Annual Report* (Government of Canada: Ottawa) 2002.
- Health Canada, *2000-2001 Canada Health Act Annual Report* (Government of Canada: Ottawa) 2001.

- Health Canada, "Romanow Report Proposes Sweeping Changes to Medicare"
(Release Date: Nov. 28, 2002) assessed at
www.hc-sc.gc.ca/english/care/romanow/hcc0403.html on Dec. 4/03.
- Health and Welfare Canada, *1984-1985 Canada Health Act Annual Report* (Government of Canada: Ottawa) 1985.
- Health and Welfare Canada, *1986-1987 Canada Health Act Annual Report* (Government of Canada: Ottawa) 1987.
- Higgins, G.L., "Medical Delivery Needs Review" in *The Alberta Doctors' Digest*
Vol. 13: No. 5 (September/October, 1988) pp. 4-5.
- Hogg, Peter, *Constitutional Law of Canada 3rd Edition* (Thomson Canada: Toronto) 1992.
- Ibbitson, John, "Rest assured, there will be a political solution to this dilemma" in *The Globe and Mail* September 15, 2004 pg. A4.
- Ibbitson, John, "There's a new council in town" in *The Globe and Mail* September 22, 2004 pg. A4.
- Jonson, the Hon. Halvar, *Alberta Hansard*, Monday March 29th, 2004 8:00pm assessed online at
http://www.assembly.ab.ca/ISYS/hansard/hansard.25/session.4/20040329_2000_han.pdf on July 2, 2004 pp. 747-760.
- Kent, Tom "A Short Path to Revitalized Federalism" assessed online at
<http://www.irpp.org/miscpubs/archive/federation/kent.pdf>, on July 13, 2004.
- Klein, Hon Ralph, Letter dated May 22/96 addressed to Brian Smith of Leduc, AB.
Sessional Paper # 1116, 4th Session, 23rd Legislature, 1996.
- Kornberg, Allan and Colin Campbell "Parliament in Canada: A Decade of Published Research" in *Legislative Studies Quarterly* Vol 3: No. 4 (Nov. 1978) pp. 555-580.
- LaSelva, Samuel V., *The Moral Foundations of Canadian Federalism* (McGill-Queen's University Press: Kingston) 1996.
- Lauk, Gary, Jack Weisgerber, and Ted White "Thoughts on Empowerment" in
Gordon Gibson ed., *Fixing Canadian Democracy* (Fraser Institute: Vancouver) 2003 pp.97-108.

- Lazar, Harvey "Trust in Intergovernmental Fiscal Relations" in Harvey Laze ed, *Canadian Fiscal Arrangements: What works, What might work better* (The Institute for Intergovernmental Relations: Kingston) 2005 pp. 3-36.
- Lazar, Harvey, France St-Hilaire and Jean Francois Tremblay "Vertical Fiscal Imbalance: Myth or Reality?" in Harvey Lazar and France St-Hilaire eds., *Money, Politics and Health care* (IRPP: Montreal) 2003 pp.135-182.
- Lazar, Harvey "In Search of a New Mission Statement for Canadian Fiscal Federalism" in Harvey Lazar ed., *Canada: The State of the Federation 1999/2000, Towards a New Mission Statement for Canadian Fiscal Federalism* (McGill-Queen's University Press: Kingston) 2000 pp. 3-40.
- Lazar, Harvey "The Social Union Framework Agreement and the Future of Fiscal Federalism" in Harvey Lazar ed., *Canada: The State of the Federation 1999/2000, Towards a New Mission Statement for Canadian Fiscal Federalism* (McGill-Queen's University Press: Kingston) 2000 pp. 99-130.
- Legislative Assembly of Alberta, *Alberta Legislative Assembly Standing Orders* (April 7, 2003) assessed online at http://www.assembly.ab.ca/net/index.aspx?p=alberta_standing_orders on June 6, 2006.
- Levy, J.C., Memo to Hon. Halvar Johnson, Minister of Health and Wellness "RE: Canada Health Act and Alberta Bill 11" Sessional Paper # 482, 4th Session, 24th Legislature, 2000.
- Lipsey, Richard G., Christopher T.S. Ragan and Paul N. Courant *Microeconomics 9th Ed.*, (Addison-Wesley Publishers Ltd: Don Mills) 1997.
- Loewenstein, Karl, *Political Power and the Governmental Process* (University of Chicago Press: Chicago) 1965.
- Macleans and Global "Politics, Social Attitudes and Sex" in *Macleans's* Vol. 113 No. 52 (Dec 25 2000-Jan 1 2001) pp. 52-54.
- Malcolmson, Patrick and Richard Myers *The Canadian Regime* (Broadview Press: Peterborough) 2002.
- Mapleleafweb "Deal reached at the Health Care Summit" assessed online at <http://www.mapleleafweb.com/features/medicare/health-accord/the-deal.html> on May 5, 2005.

- Mapleleafweb "Striking a Fed-Prov Health Care Deal" assessed online at <http://www.mapleleafweb.com/features/medicare/health-accord/striking-deal.html> on May 5, 2005.
- Marshall, Robert "Paying the Price" in *Maclean's* Vol. 113 No. 52 (Dec 25 2000-Jan 1 2001) pp. 48-50.
- McIntosh, Tom "Intergovernmental Relations, Social Policy and Federal Transfers After Romanow" in *Canadian Public Administration* Vol. 47:No. 1 (Spring 2004) pp.27-52, assessed online through Expanded Academic ASAP at <web5.infotrac.galegroup.com> on June 23, 2004.
- McRoberts, Kenneth *Misconceiving Canada: The Struggle for National Unity* (Oxford University Press: Toronto) 1997.
- Mendelsohn, Matthew, "Canadians Prepared to Accept Medicare Reform in Primary Care Polling Shows" in *Policy Options* Vol. 22: No. 11 (November, 2002) pp. 27-29.
- Milner, Henry *Civic Literacy: How Informed Citizens Make Democracy Work* (University Press of New England: Hanover) 2002.
- Milner, Henry "The Case for Proportional Representation in Canada" in Henry Milner Ed. *Making Every Vote Count* (Broadview Press: Peterborough) 1999 pp. 37-50.
- Munroe, Susan, *Canadian Premiers Join Forces on Federal-Provincial Relations*, accessed at www.canadaonline.about.com/cs/premiers/a/federationcncl.htm, on March 26, 2004.
- Murray, The Hon. Lowell, "Keynote Address" in *The Canadian Senate What is to be Done? Proceedings of the National Conference on Senate Reform May 5-6, 1988*(Centre for Constitutional Studies: Edmonton) 1988.
- Norrie, Kenneth and L.S. Wilson "On Re-Balancing Canadian Fiscal Federalism" in Harvey Lazar ed., *Canada: The State of the Federation 1999/2000, Towards a New Mission Statement for Canadian Fiscal Federalism* (McGill-Queen's University Press: Kingston) 2000 pp. 79-98.
- North, Douglas, *Institutions, Institutional Change, and Economic Performance* (Cambridge University Press: Cambridge) 1990.

Olsen, Tom "Rejection of Klein's Health Agenda Hints at Dissension" in the *Calgary Herald* July 8th, 2004 pg. A4.

Okma, Kieke G.H., "How (not) to Look at Proposals to Reform Canadian Health Care" in *Policy Options* Vol. 22: No. 11 (November, 2002) pp. 17-21.

O'Reilly, Patricia, "The Canadian Health System Landscape" in Duane Adams ed., *Federalism, Democracy and Health Policy in Canada*, (Institute of Intergovernmental Relations, McGill-Queens University Press: Kingston) 2001 pp. 17-60.

Parliament of Canada *House Government Bills 37th Parliament, 2nd Session*
accessed at
<www.parl.gc.ca/common/Bills_House_Government.asp?Language=E&Parl=37&Ses=2>, assessed on March 2nd, 2004.

Parliament of Canada *House Government Bills 37th Parliament, 1st Session*
accessed at
<www.parl.gc.ca/common/Bills_House_Government.asp?Language=E&Parl=37&Ses=1>, assessed on March 2nd, 2004.

Parliament of Canada *House Government Bills 36th Parliament, 2nd Session*
accessed at
<www.parl.gc.ca/common/Bills_House_Government.asp?Language=E&Parl=36&Ses=2>, assessed on March 2nd, 2004.

Parliament of Canada *House Government Bills 36th Parliament, 1st Session*
accessed at
<www.parl.gc.ca/common/Bills_House_Government.asp?Language=E&Parl=36&Ses=1>, assessed on March 2nd, 2004.

Parliament of Canada *House Government Bills 35th Parliament, 2nd Session*
accessed at
<www.parl.gc.ca/common/Bills_House_Government.asp?Language=E&Parl=35&Ses=2>, assessed on March 2nd, 2004.

Parliament of Canada *House Private Members' Bills 37th Parliament, 1st Session*
accessed at <www.parl.gc.ca/common/Bills_House_Private.asp?Language=E&Parl=37&Ses=1>, assessed on March 2nd, 2004.

Parliament of Canada *House Private Members' Bills 37th Parliament, 2nd Session*
accessed at <www.parl.gc.ca/common/Bills_House_Private.asp?Language=E>

&Parl=37&Ses=2>, assessed on March 2nd, 2004.

Parliament of Canada *House Private Members' Bills 36th Parliament, 2nd Session* accessed at <www.parl.gc.ca/common/Bills_House_Private.asp?Language=E&Parl=36&Ses=2>, assessed on March 2nd, 2004.

Parliament of Canada *House Private Members' Bills 36th Parliament, 1st Session* accessed at <www.parl.gc.ca/common/Bills_House_Private.asp?Language=E&Parl=36&Ses=1>, assessed on March 2nd, 2004.

Parliament of Canada *House Private Members' Bills 35th Parliament, 2nd Session* accessed at <www.parl.gc.ca/common/Bills_House_Private.asp?Language=E&Parl=35&Ses=2>, assessed on March 2nd, 2004.

Peach, Ian, *Half Full, at Best: Challenges to the Council of the Federation*, (C.D. Howe Institute Backgrounder) No.84 June, 2004 assessed online at www.cdhowe.org, on July 3rd, 2004.

Pelletier, Rejean, "Responsible Government: Victory of Defeat for Parliament?" in F. Leslie Seidle and Louis Massicotte eds., *Taking Stock of 150 Years of Responsible Government in Canada*, (Canadian Study of Parliament Group: Ottawa) 1998 pp. 51-70.

Pelletier, Rejean, *Intergovernmental cooperation Mechanisms: Factors for Change*, (Commission on the Future of Health Care in Canada Discussion Paper) No.29 Oct, 2002 assessed online at, <http://dsp-psd.pwgsc.gc.ca/Collection/CP32-79-29-2002E.pdf> on July 3rd, 2005.

Perry, J. Harvey "What Price Provincial Autonomy?" in *The Canadian Journal of Economics and Political Science* Vol. 21: No. 4 (Nov. 1955) pp. 432-445.

Pollara, "Public Input on the Future of Health Care" assessed at http://www.hc-sc.gc.ca/english/pdf/romanow/pdfs/Issue_Survey_Report_E.pdf on Nov. 17/03.

Reid, John, "Transparency, Accountability and Access to Information" in Gordon Gibson ed, *Fixing Canadian Democracy* (Fraser Institute: Vancouver) 2003 pp.201-210.

Rempel, Roy *The Chatter Box* (Breakout Educational Network: Toronto) 2002.

Rice, James J. "Being Poor in the Best of Times" in G. Bruce Doern eds., *How Ottawa*

Spends 2002-2003: The Security Aftermath and National Priorities (Oxford University Press: Toronto) 2002 pp. 102-120.

Rich, Pat, "User Fees if Necessary But Not Necessarily User Fees: CFPC" in *Canadian Medical Association Journal* assessed online at < <http://www.cmaj.ca/cgi/reprint/165/11/1519-a.pdf>> on Nov. 9/03.

Riddell, Troy and F.L. Morton "Government Use of Strategic Litigation: The Alberta Exported Gas Tax Reference" in *American Review of Canadian Studies* Vol 34: No. 3 (Autumn, 2004) pp. 485-509.

Robertson, Heather *On The Hill: A People's Guide To Canada's Parliament* (McClelland and Stewart: Toronto) 1992.

Rodden, Jonathon "The Dilemma of Fiscal Federalism: Grants and Fiscal Performance around the World" in *American Journal of Political Science* Vol 46: No. 3 (July, 2002) pp. 670-687.

Rose, Richard "British MP's: More Bark than Bite?" in Ezra N. Suleiman ed., *Parliaments and Parliamentarians in Democratic Politics* (Holmes & Meier: New York) 1986 pp. 8-40.

Russell, Hon. David J. *Minutes of Proceedings and Evidence of the Standing Committee on Health, Welfare and Social Affairs, Respecting Bill C-3, The Canada Health Act, Witness Testimony* Chairman: David Weatherhead (House of Commons: Ottawa) 1984.

Savoie, Donald J. *Governing from the Centre: The Concentration of Power in Canadian Politics*. Toronto: University of Toronto Press, 1999.

Simeon, Richard. *Federal/Provincial Diplomacy: The Making of Recent Policy In Canada*. Toronto: University of Toronto Press, 1972.

Simeon, Richard "Considerations on Centralization and Decentralization" in Randy Olling and martin Westmacott eds., *Perspectives on Canadian Federalism* (Prentice-Hall: Scarborough) 1988 pp. 367-378.

Simpson, Jeffrey, *The Friendly Dictatorship* (McClelland and Stewart: Toronto) 2001.

Smiley, D. V. "The Structural Problem of Canadian Federalism." *Canadian Public Administration*. Vol. 14 No. 3: (Summer, 1971) 326-343.

Smiley, D. V. "Federal-Provincial Conflict in Canada" *Publius* Vol. 4 No. 3:

(Summer, 1974) 7-24.

Smiley, D.V. & Ronald Watts, *Intrastate Federalism in Canada*, (University of Toronto Press: Toronto) 1985.

Smith, David, "Canada's Electoral College" (June 25th, 2004) accessed online July 15th, 2004 at www.cbc.ca/canadavotes/analysiscommentary/davidsmith.html.

Smith, Jennifer *The Meaning of Provincial Equality in Canadian Federalism* (Institute of Intergovernmental Relations: Kingston) 1998, assessed at <http://qsilver.queensu.ca/iigr/publications/working_paper_series/JSmith.html> on Sept. 9th, 2002.

Sproule-Jones, Mark, *Canadian Parliamentary Federalism and Its Public Policy Effects*, (University of Toronto Press: Toronto) 1993.

Stein, Michael B, "Federal-Provincial Diplomacy: The Making of Recent Policy in Canada" in *The Canadian Journal of Political Science*, Vol. 6: No.1 (Mar, 1973), pp. 149-151.

Stevenson, Garth "The Division of Powers" in Randy Olling and martin Westmacott eds., *Perspectives on Canadian Federalism* (Prentice-Hall: Scarborough) 1988 pp. 35-60.

Strick, John C., *The Public Sector in Canada: Programs, Finance and Policy* (Thompson Educational Publishing: Toronto) 1999.

Studlar, Donley T., "Consequences of the Unreformed Canadian Electoral System" in *The American Review of Canadian Studies* Vol 33: No. 3 (Autumn 2003) pp. 313-338.

Telford, Hamish "The Federal Spending Power in Canada: Nation-Building or Nation-Destroying" in *Publius: The Journal of Federalism* Vol 31: No. 1 (Winter 2003) pp. 23-44.

Tindal, Richard C., *A Citizens Guide to Government* (McGraw-Hill Ryerson: Toronto) 2000.

Tremblay, Andre, "Federal Spending Power" in Alain-G. Gagnon and Hugh Segal eds., *The Canadian Social Union without Quebec: 8 Critical analyses* (IRPP: Montreal) 2000 pp.155-208.

Tsebelis, George, *Veto Players: How Political Institutions Work* (Princeton University

Press: New Jersey) 2002.

Tuohy, Carolyn Hughes, *Accidental Logics: The Dynamics of Change in the Health Care Arena in the United States, Britain and Canada* (Oxford University Press: Oxford) 1999.

Volpe, The Hon. Jeannot, *New Brunswick's Perspective on the Equalization Program*, (July 2005) assessed online at www.eqttf-pfft.ca/submissions/NewBrunswick.pdf on March 25, 2006.

Walkom, Thomas "Provinces got federal loot, Ottawa left holding the bag: a one sided medicate deal" in *CCPA Monitor* Vol. 11: No. 6 (November, 2004) pg. 14.

Wheare, K.C. *Federal Government* (Oxford University Press: London) 1963.

William, Paul A., Eugene Vayda, May L. Cohen, Christel A. Woodward, Barbara M. Ferrier, "Medicine and the Canadian State: From the Politics of Conflict to the Politics of Accommodation?" in *Journal of Health and Social Behavior*, Vol 36: No. 4 (December, 1995) pp. 303-321.

Wilson, L.S., "The Socialization of Medical Insurance in Canada" in *The Canadian Journal of Economics*, Vol. 18: No.2 (May, 1985), pp. 355-376.

Veldhuis, Niels, and Jason Clemens, "Clarifying the Federal Government's Contribution To Health Care" in *Fraser Forum* (February, 2003) pp. 3-5.

Vipond, Robert C., *Liberty & Community: Canadian Federalism and the Failure of the Constitution* (State University of New York Press: Albany) 1991.