

CANADA'S FEDERALISM IN THE 21ST CENTURY

Thomas R. Klassen

Associate Professor
Department of Political Science
and
School of Public Policy and Administration
York University
4700 Keele Street
Toronto, ON Canada M3J 1P3
e-mail: tklassen@yorku.ca

Abstract

When Canada was created in 1867 it was a union of essentially equal provinces, with federal powers balanced between the House of Commons and the Senate. The new country was closely tied to Great Britain, and Aboriginal peoples were excluded from the governance of Canada. Developments in the past 140 years – including the increase in the scope of provincial activities – call for reforms to Canada's governance structures especially with regard to: 1) the head of state; 2) the Senate; 3) the Atlantic provinces; 4) the role of Aboriginal peoples; and 5) education policy. Reforms in these areas, including a “made-in-Canada” head of state, a transformation of the Senate, a review of how the Atlantic provinces might better collaborate, the inclusion of Aboriginal peoples in governance fora, and a greater federal role in education policy will prepare Canada for the challenge and opportunities of the 21st century.

September 2007

CANADA'S FEDERALISM IN THE 21ST CENTURY

Introduction

Canada, like many other geographically vast nations, faces particular challenges in ensuring that its decentralized form of governance remains effective in the 21st century. Although Canada's size makes it the second largest nation in the world – and 100 times as large as South Korea – it does not confront the almost unimaginable geo-political circumstances of the Russian Federation, which is nearly twice the size of its neighbour across the Arctic. Also, unlike China, Canada does not have the array of ethnic groups with longstanding histories and cultures. However, Canada has become one of the world's most decentralized developed nations, and far more so than the United States, Australia and Brazil (Watts, 1999). The degree of decentralization is such that the nation has no national department of education, but rather leaves primary, secondary and post-secondary schooling entirely the responsibility of the 10 provincial governments. Observers unfamiliar with the country are often incredulous that socialization and citizenship education, which are central to national building and national identity, is not to some extent a federal government responsibility.

This paper deals not with, as might be supposed from its title, with the “question of Quebec.” The province's role in the federation has been the key domestic political issue for centuries and is likely to continue to be so. Rather, this essay analyzes how other aspects of the federation might be reformed during the early decades of the 21st century. The reforms proposed are designed to ensure that the governance structures of the nation are adequate to respond to current, and emerging, internal and international conditions. However, as will become apparent, many of the adjustments suggested herein would also serve to make more Quebecers feel more at home in Canada. Five areas of reform are outlined, specifically to: 1) the head of state; 2) the Senate; 3) the Atlantic provinces; 4) the role of Aboriginal peoples; and 5) education policy.

1. Head of State

That the head of state for Canada – namely the Queen of Canada – is a non-resident who has no contemporary connection with most of its people should strike one as an odd situation. Canada is not unique in this regard among former British colonies, but this does not mean that the *status quo* cannot be examined and reforms considered. Certainly, other colonies have seen it fit to replace the British monarch as their head of state, and more will doubtlessly do so.

That the current office holder – Queen Elizabeth II – has ruled for more than five decades means that she can reasonably link Canadians to a time when their country was much more tied to Britain, and indeed a time when Newfoundland was still a colony. However, the next monarch, be it King Charles or King William, will have no logical connection with Canada of the 21st century.

Although most Canadians might see worth in a made-in-Canada head of state, the difficulty is that there is no obvious mechanism to select the office holder. The Prime Minister is already responsible for appointing the Senate, the members of the Supreme Court, ambassadors and others, so that there is little need to further augment his – or her – powers. In any case, in selecting the Governor-General, the record of prime ministers is rather mixed. Some choices for Governor-General have been charismatic individuals who fashioned the office into something more than its limited formal powers would seem to make possible. Adrienne Clarkson comes to mind as one of these exemplary governors. At the same time, other office holders have been little more than political hacks who were ill suited for the position.

A reformed Senate would seem to be the most reasonable the body to select the head of state. There are however also other options, such as a committee of the recipients of the Order of Canada. In any case, the existence of the Governor-General, with a specific role (as well as residence, etc.) who typically acts as head of state, means that fashioning a Canadian head of state is not as problematic as might initially be thought. In other words

– and fortunate given the preference of Canadians for gradualism – much of the current processes and institutional structures, such as final assent of legislation, opening sessions of Parliament, and so forth by the head of state, would remain unaltered.

When Canada finally attains its own head of state it will truly be become a mature and sovereign nation. Not surprisingly, such a development would be particularly welcome to many in Quebec and in the Aboriginal community, who has always seen the current arrangement as yet another, and unnecessary, reminder of English dominance in Canada and the nation's colonial past.

2. Senate

The Senate originally was created to ensure “sober second thought” as well as to guarantee regional representation by countering the representation by population of the House of Commons. A central purpose of the second chamber was to protect the smaller provinces and Quebec, and to allow regional/provincial interests to be incorporated in federal decision-making. This rationale for an appointed, rather than elected, body was reasonable when only a small percentage of Canadians had the right to vote. However, because members of the Senate are appointed and not elected, they have had little legitimacy for most of the 20th century as voting rights were granted to women, Aboriginals and ultimately all citizens over the age of majority.

The result is that the Senate does not exercise the formal powers – which are equal to those of the House of Common other than in initiating spending – in that that it has rarely rejected bills that has been passed by the House of Commons. Its most common role is to make minor amendments to legislation, usually in the interests of the powerful and well connected, such as the major banks. Even in its role of guaranteeing regional representation, the Senate has gradually become a failure. For instance, Nova Scotia, New Brunswick and Prince Edward Island have 6% of Canada's population, but 23% of the Senate seats. Prince Edward Island with .45% of Canada's population, has almost 4%

of all Senate seats, while the four Western provinces, with somewhat over 30% of Canada's population, but only 23% of Senate seats.

Given the rather sorry state of affairs, two serious efforts at Senate reform have occurred recently. The 1987 Meech Lake Accord would have rehabilitated the Senate by requiring the federal government to choose a senator from a list of persons nominated by the provincial government (Robertson, 1989). More significantly, the 1992 Charlottetown Accord would have transformed the Senate by having an equal number of senators from each province, who could have been elected by the people or by the provincial legislature (Russell, 1993). Of course, both efforts at constitutional change failed, although not primarily because of the Senate modification components, which were in both cases not the core of the proposals.

The current situation is clearly unacceptable in the long run. That the first ministers of all the provinces and the federal government were twice able in the past two decades to agree on reforms is encouraging. The heightened public discourse of a democratic deficit in Canadian political life means that Senate reform may not be impossible (Gibson, 2003). The Triple E Senate option – elected, effective and equal – has a reasonable probability of acceptance, awaiting a prime minister willing to wade into the waters of constitutional reform. Prime Minister Stephen Harper has proposed, and in a few cases implemented, steps in such a direction.

3. Atlantic Provinces

At the time of Confederation, the three Maritime provinces were central to trade and commerce in Canada, with a strategic geographic position and a wealth of human capital. Although smaller in population in 1967 than Ontario and Quebec, the discrepancy was not large, with for example Nova Scotia's population standing at one fourth that of Ontario at the time of confederation. In addition, even the geographic size of the Maritime provinces was not much different from that of Ontario and Quebec. Over the

past 140 years this situation has changed dramatically, including Newfoundland joining Canada in 1949 so that there are now four Atlantic provinces.

The case of Nova Scotia, currently the wealthiest and most populous Atlantic province, is illustrative. In the late 19th century, the province industrialized rapidly. However, over the last century, manufacturing in the province suffered a gradual decline in the face of competition from central Canadian industries that were larger, more modern and located closer to markets. In the past two decades, the industrial base has withered further with the closure of steel mills and coal mines so that at present there remain only a handful of private sector employers with more than 1,000, but none with more than 5,000 employees. Labour productivity, the average level of output produced per hour worked, is about 20 per cent lower than the national average. A very small and declining percentage of Nova Scotia goods and services are exported to international markets so that only 1.5 per cent of Canada's exports originate from the province (Schneider, Klassen and Haddow, 2004). The story is the same for the other three provinces, which have smaller populations and are less economically developed. Prince Edward Island, with a population equal to that of the number of students at the University of Toronto and York University, is the most marginalized, economically and in terms of its policy capacity.

At times the four provinces have sought to cooperate in some areas, such as an Atlantic gaming corporation, but this is very much the exception. Canadian federalism does not provide incentives for collaboration among provinces, much less for joint policy development and service delivery. Nevertheless, it is becoming obvious that modifications to the present arrangement are required, lest the Atlantic provinces, and Prince Edward Island in particular, essentially become little more than wards of the federal government. Far less clear is how a joining together of the provinces might occur and the form that this might take.

The common heritage of the four provinces – which are more British than the rest of Canada – provides common ground for some type of regional grouping. The European Union is a model that might be helpful in discussions that the provinces may want to have

on how to collaborate more closely. Doubtlessly, an Atlantic association of provinces is a long-term development, but one which would allow those provinces to recapture a greater degree of ability to effectively and efficiently manage their own affairs.

4. Aboriginal peoples

As in the case of other American nations, as well as Anglo-Saxon countries such as Australia and New Zealand, the role of Aboriginal peoples in the contemporary governance regimes is problematic (Long and Dickason, 1996). One million in Canada people identify themselves as having an Aboriginal identity, accounting for 3.3% of the nation's total population. However, a considerably smaller – less than one in five – have an Aboriginal language as a mother tongue.

In 1867 there was no thought given to the role of those who lived in Canada for thousands of years prior to the arrival of Europeans. Doubtlessly, the framers of the Constitution anticipated that the Aboriginals would ultimately become assimilated into the mainstream culture, or perhaps would otherwise disappear. To some extent, indeed this has happened, with native groups at present marginalized and oppressed to a degree that would shock most Canadians, should they ever seriously consider the matter. For instance, life expectancy, educational levels, housing conditions, health status and indeed all indicators of socio-economic wellbeing are dramatically lower for Aboriginals, especially those on “First Nations reserves” or in isolated communities.

The overall incarceration rate for aboriginal Canadians is nine times higher than for the population at large. Even in the recent past, the systematic abuse suffered by Aboriginals from federal government policy includes forced relocation, the state attempts at to erase their cultural heritage (as in the residential schools). Although royal commissions and others – including international bodies – frequently call for remedies, the lack of any political clout on the part of Aboriginals, in part because of the heterogeneity of the

community and the cultural divide between whites and natives, has meant no more than patchwork policies and initiatives.

Notwithstanding the sordid history of state efforts to assimilate the Aboriginals, there is yet hope that matters are improving so that ultimately Canadians might recognize three founding peoples, rather than only two. The creation of Nunavut in 1999 marks the first time that a large territory with a primarily homogeneous Aboriginal population has been granted the opportunity for considerable self-determination. Modern communication technology might play a role in allowing a geographically dispersed people to remain in contact and protect their culture.

Suggestions have been made that seats in the House of Commons or a reformed Senate could be allocated or reserved for Aboriginal representatives. It is also not inconceivable that one day a seat on the Supreme Court might be thought appropriate for a lawyer of Aboriginal descent. In the shorter term, it may be that the next Governor General will be of Aboriginal background.

Although the creation of Nunavut and other developments are positive signs, the place of Aboriginals in Canada remains precarious, and their role in governance structures non-existent. However, if there is one area in which Canadians as a people, and the federal and provincial governments, hopefully can agree that reforms are warranted, it must be in ensuring that Aboriginals become fuller members of the federation. No harm to any group can be envisioned, and many benefits are inherent for all groups, from more formally recognizing the three, rather than two, founding peoples of Canada. As with an enhanced inclusion of Quebec, doing so can only further differentiate Canada from other nations in the Americas, and beyond.

5. Education

Much has been written on the increasing importance of education and human capital in a more globalized and economically interdependent world. Canada is blessed with abundant natural resources, including the oil sands of Alberta, the forests of British Columbia, the ores found in Saskatchewan, Ontario and Quebec, and the rich agricultural land of the Prairies and the southern areas of Ontario and Quebec. It may well be that its fresh water will become increasingly important on a planet that will inexorably face the consequences of unprecedented global warming. At the same time, there is no guarantee that exploiting essentially finite natural resources guarantees a high standard of living for future generations. The collapse of the cod fishery in the Atlantic provinces is but one recent example of how quickly conditions can change.

Historically, Canada has used immigration as a means to address human capital deficits and deficiencies (Veugelers and Klassen, 1994). Indeed, Canada is more a nation of immigrants than its southern neighbour, notwithstanding the common perception that the United States is the preferred destination of immigrants: 18% of Canada's population is foreign-born, compared to only 11% for the United States. Current immigration policy effectively ensures that only college and university educated individuals, who are relatively young, meet the number of points required for entry into Canada under the independent immigrant category. Although it seems likely that Canada will remain a favoured destination for immigrants – given its political stability and already large immigrant base – there is no assurance on this matter. During the 1950s and 1960s it seemed that an endless supply of skilled Western European immigrants would fuel Canada's post World War boom. However, this source of immigrants withered as the European nations reached, and in some cases exceeded, the Canadian standard of living. There is little incentive today for a young French, German or Italian worker, entitled to six weeks of paid vacation per year and free university tuition for his or her children, along with a range of social services, to immigrate to Canada. Not surprisingly, few immigrants now arrive from developed nations, and those that do typically have some previous connection to Canada.

Today, as has always been the case during Canada's history, the bulk of immigrants arrive because they have calculated that their own lives, or at least those of their children, will be substantially better economically in Canada than in their home country. This calculus has brought tens of thousands, of not hundreds of thousands in some cases, of highly skilled and motivated immigrants in recent decades from countries such as China, India, South Korea, etc. However, this flow of human capital also cannot be guaranteed into the future. Many of these countries are industrializing rapidly and thus able to provide economic opportunities for their own citizens. For instance, with annual per capita GNP for South Korea now at US\$ 20,000, future immigration from that country to Canada – which has been extensive for the past two decades – will decline significantly. At the same time the ideological differences that once might have brought an entrepreneur to Canada from Eastern Europe or China have faded away.

In view of the above set of conditions, Canada is unprepared for a world in which it must compete on the knowledge of its workers (Gaskell and Rubenson, 2004). Primary and secondary education lacks a strategic and pan-Canadian vision and – as one might expect – is fragmented because provinces have exclusive responsibility, which is jealously guarded. Historically, education in Canada has been viewed by the state primarily as a means to teach language, religion and culture, rather than to awaken learning or foster scientific knowledge.

One consequence of the traditional role of education is the inadequate training and preparation of secondary school teachers. For instance, only an eight month “degree” in education, in addition to a general undergraduate degree, is needed to be qualified teacher. Even more absurdly, is that teachers are only required to ever have taken two university courses in the subject they teach. In other words, it is common for a math teacher to have completed only two mathematics courses during his or her own studies. As a result, many teachers are woefully under-prepared to challenge and inspire students, especially in physics, chemistry, biology, computer science and other fields in which transformations in knowledge and technology have occurred in the past several decades. In these fields,

university graduates can find lucrative employment in the private sector, so that the classroom teachers are frequently those who have taken only two or three science or math courses and have but a marginal interest in the subject.

With respect to post-secondary education, there has been no attempt to create a pan-Canadian system, such as a differentiation or specialization of universities or technical colleges. Each province pursues its own post-secondary education agenda, often with wild – and highly disruptive – swings in funding for institutions based on the state of provincial coffers. Few Canadian universities have the kind of research focus and resources required to compete internationally or even within North America.

The federal government has sought to strengthen the research capacity of universities via the successful Canada Research Chair program. This program partly has reversed the brain drain to the United States by allowing Canadian universities to compete in terms of salaries for top ranked professors. However, the program will not, itself, ensure that Canada attains a first-class system of colleges and universities.

Finally, with regard to vocational education and skills training, the past decade has seen decentralization of responsibilities and resources, rather than the opposite. As a direct result of the 1995 Quebec referendum in which 49.4 % voted “yes,” the federal government has quietly transferred responsibility to the provinces for training and labour market preparation for those in receipt of unemployment insurance benefits.

Consequently, since 1996, some 2,500 federal civil servants have been permanently transferred to the provinces and territories along with nearly two billion dollars annually to the provinces (Klassen, 2000).

Without a doubt the federal spending and policy capabilities are needed in post-secondary education, especially in the creation of a national top-tier of research-centred universities. At the secondary education level, the federal government could assist to internationalize high schools, especially in the major urban areas and foster cross-national joint ventures, student and teacher exchanges, and so forth. The federal government, especially its

spending, might also play a role increasing the level of teacher preparation in secondary schools, including partnerships with other organizations that could enhance the classroom experience for students. Although the federal government would find it difficult to now (re)centralize job training, it can nevertheless ensure common standards across provinces and provide labour market information to provinces, employers and individuals.

The founding fathers of confederation sought to establish a united Canada to ensure its competitiveness in the world. Doubtlessly, they would support refinements to their arrangement if these would further their original goal. Fortunately, with education policy, considerable improvements could be made even without constitutional amendments. Perhaps more so than in the other four areas discussed, the future of the country depends on it.

Conclusion

When Canada was created in 1867 it was a union of essentially equal provinces, with federal powers balanced relatively equally between the House of Commons and the Senate. At that time, the new nation was still very much bound to the British Parliament and Crown, with considerable responsibility vested in London, such as in foreign affairs and judicial review. Native Canadians were viewed as inferior in every possible way, and it was hoped that they would ultimately vanish (Ajzenstat, et al. 2003).

Obviously matters have changed in the past 140 years. Economic and population growth has shifted to central and western Canada, while the appointed Senate has become less and less relevant. The expansion of the welfare state after World War Two has made the provinces, and their municipal governments, far more central in the lives of Canadians, especially with regard to social services, health and education, than ever imagined in the relatively centralized nation that was envisioned in 1867 (Dunn, 1996).

The last major Constitutional reform occurred twenty-five years ago with the repatriation of the Constitution and the institutionalization of the *Charter of Rights and Freedoms*. Given the considerable length of time required for debate and negotiation for further reforms, it seems that Canadians and their governments may, and indeed should, wish to begin – in the so apt words from the world of boxing – “the next round.”

References

- Ajzenstat, Janet, et al. 2003. *Canada's Founding Debates*. Toronto: University of Toronto Press.
- Dunn, Christopher, ed. 1996. *Provinces: Canadian Provincial Politics*. Peterborough: Broadview Press.
- Gaskell, Jane and Kjell Rubenson, eds. 2004. *Educational Outcomes for the Canadian Workplace: New Frameworks for Policy and Research*. Toronto: University of Toronto Press.
- Gibson, Gordon, ed. 2003. *Fixing Canadian Democracy*. Vancouver: The Fraser Institute.
- Klassen, Thomas R., 2000. “The Federal-Provincial Labour Market Development Agreements: Brave New Model of Collaboration?” In Tom McIntosh, Ed., *Federalism, Democracy and Labour Market Policy in Canada*. Montreal: McGill-Queen's University Press, 159-203.
- Long, David, and Olive Dickason. 1996. *Visions of the Heart: Canadian Aboriginal Issues*. Toronto: Harcourt Brace.
- Robertson, Gordon. 1989. *A House Divided: Meech Lake, Senate Reform and the Canadian Union*. Halifax: Institute for Research on Public Policy.
- Russell, Peter H. 1993. *Constitutional Odyssey: Can Canadians Become a Sovereign People?* Toronto: University of Toronto Press.
- Schneider, Steffen, Thomas R. Klassen and Rodney Haddow. 2004. “Across the Atlantic: Labour market reforms in subnational jurisdictions of Canada and Germany,” *International Journal of Canadian Studies*. 29: 117-140.
- Smith, David E. 2003. *The Canadian Senate in Bicameral Perspective*. Toronto: University of Toronto Press.

Ronald L. Watts. 1999. *Comparing Federal Systems*. Kingston: Institute of Intergovernmental Relations, Queen's University.

Veugelers, John W. P. and Thomas R. Klassen. 1994. "Continuity and change in Canada's unemployment-immigration linkage (1946-1993)," *Canadian Journal of Sociology*, 19.3: 351-369.