



Constructive and Co-operative Federalism? A Series of Commentaries on the Council of the Federation

Some Personal Reflections on the Council of the Federation

Bob Rae*

Foreword

Canada's Provincial and Territorial Premiers agreed in July 2003 to create a new Council of the Federation to better manage their relations and ultimately to build a more constructive and cooperative relationship with the federal government. The Council's first meeting takes place October 24, 2003 in Quebec hosted by Premier Jean Charest.

This initiative holds some significant promise of establishing a renewed basis for more extensive collaboration among governments in Canada, but many details have yet to be worked out and several important issues arise that merit wider attention.

The Institute of Intergovernmental Relations at Queen's University and the Institute for Research on Public Policy in Montreal are jointly publishing this series of commentaries to encourage wider knowledge and discussion of the proposed Council, and to provoke further thought about the general state of intergovernmental relations in Canada today.

This series is being edited by Douglas Brown at Queen's University in collaboration with France St-Hilaire at the IRPP.

Harvey Lazar Hugh Segal October 2003

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was to have a strong, even a predominant, centre. The provinces powers were to be seen as local in nature.

Macdonald had not counted on the potent combination of his former law partner, Oliver Mowat, and the Privy Council in London. Arguing Ontario's (and the other provinces) case for nearly thirty years, Mowat insisted that the provinces had full powers in their areas of sovereignty, and that the federation was a union of equals. These arguments were largely persuasive and, with the exception of war-time Canada's constitution has recognized a substantial degree of autonomy and power for the provinces in their areas of jurisdiction.

The last fifty years has seen the federal government expanding its sphere of influence through the use of the spending power, most notably through transfers in the fields of health, higher education and social services, and then finding the need to retrench these expenditures because of the higher deficits of the period after 1975. The provinces were happy to receive the generous transfers of the 1950s and the 1960s, which paid for the dramatic expansion of higher education and hospital and medical care. By the same token, the unilateral nature of the cutbacks of the 1970s, 80s, and 90s created a deep sense of grievance, which has lasted to the present day. I well remember Tommy Douglas's speeches in the House of Commons in 1978 on the subject of the Established Programs Financing Act.

It was no accident that Mowat was the architect of the first premiers conference in Quebec City in 1886. The Senate was not able to function as a "house of the provinces." A key weakness of the 1867 British North America Act was thus revealed, and our politicians have been wrestling with it ever since. No institutions were created which allowed regional and provincial concerns to be settled at the centre. The result has been a series of innovations: at times, strong regional and provincial Cabinet Ministers with the ear and confidence of the Prime Minister, at ot-100s pC-2, of cspred ilfergional (polind 7(dical

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gathering of premiers and give their meetings and deliberations more structure, back-up, and weight. The proposal was endorsed by the premiers in Toronto at their summer conference in 1994, but the electoral victory of the PQ in that same year meant that any thought of practical reform went into the deep-freeze. It has taken the return of the Liberals to power in Quebec in 2003 to resurrect the idea.

In the meantime, the early honeymoon of the Chrétien government has been replaced by the usual