

# The Meaning of Provincial Equality in Canadian Federalism

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## INTRODUCTION

The principle of the equality of the provinces has become ubiquitous, an increasingly important feature of the ongoing efforts to resolve Canada's national unity crisis. To some, the principle is an essential part of any

the provinces are not sufficiently marked to justify the view that one or some of them enjoy a special status or special powers denied to the others<sup>4</sup>. David Milne, by contrast, is more impressed by the differences, although he calls them "asymmetries" and defines the category more broadly to include the "formal differences in law among the units [of a federation] either with respect to jurisdictional powers and duties, the shape of central institutions, or the application of national laws and programs."<sup>5</sup> After a systematic review of constitutional asymmetry in law and in practice, and in important

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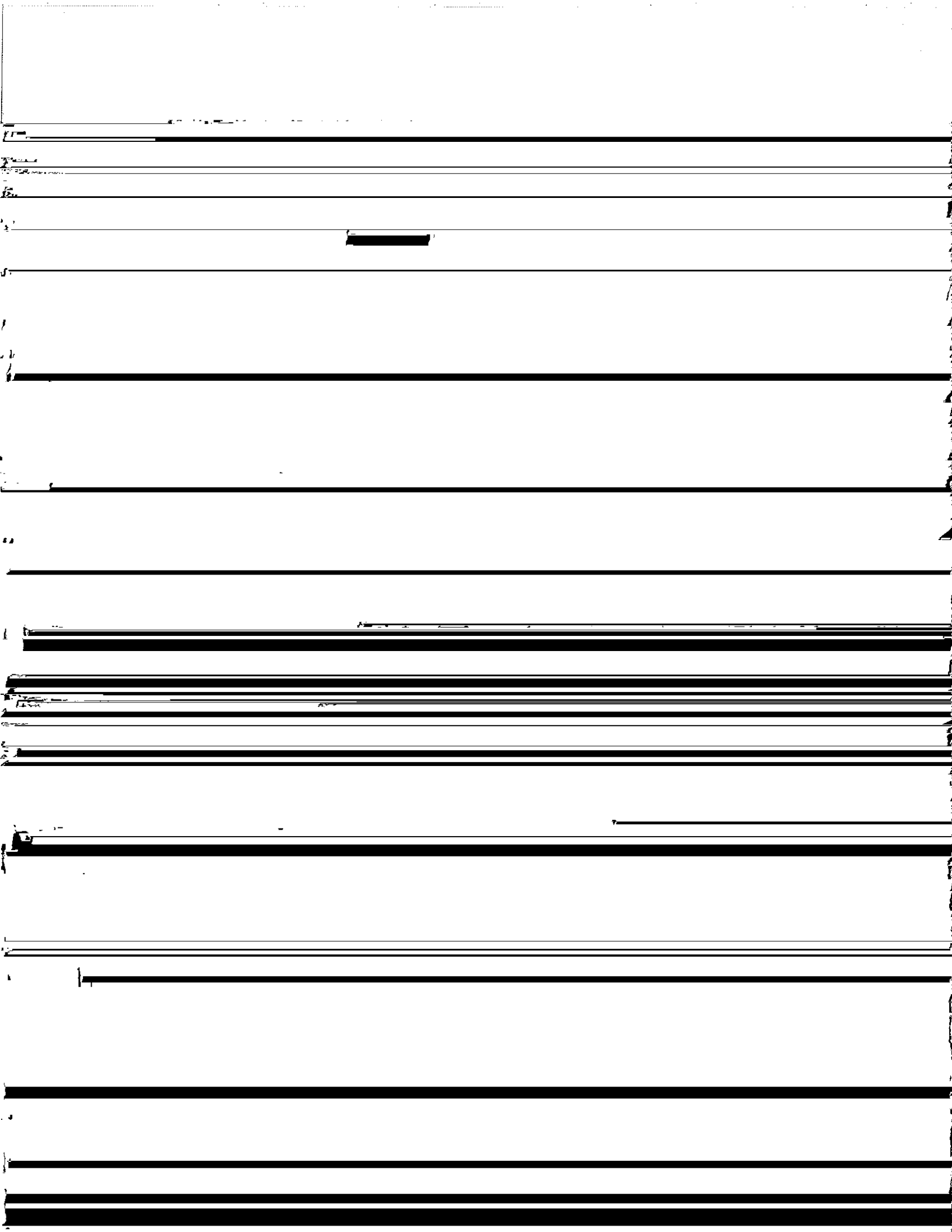
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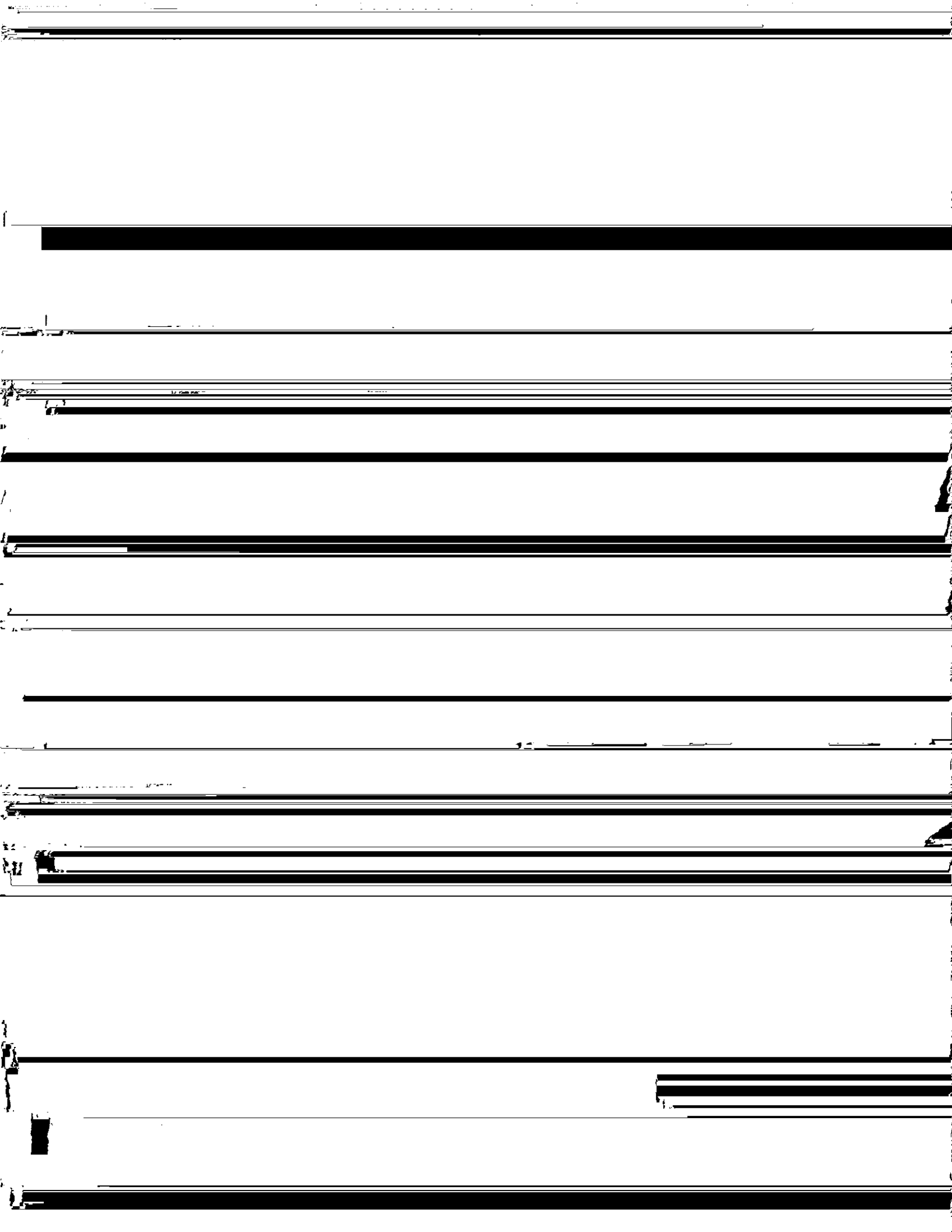
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cern is to capture the right relationship between these equal member states, understood

Flexible federalists face a serious obstacle in how to represent the constituencies of

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governments. He then argues that the key to the dynamic of federalism is competition. The effect of the division of powers on the relationships between the governments is to make them competitive ones: "The central

relation to economic competitiveness, supplies a new standard of equality for federalism to meet.



establishes a system of government (Smith, 1954, p. 10)

are equal and co-ordinated, one of them represented by a central government charged

of the principal sources of distinction between the Nova Scotia and Quebec state-

federal government's actions were an issue as well, and prominent among them were changes in transportation and tariff policies that injured the competitive position of Maritime manufacturers in relation to their central Canadian rivals.<sup>58</sup> These policies

did it yield?

According to Forbes, not as much as anticipated, and certainly not enough to reverse course economically, as the upcoming Depression years emphatically demonstrated.

mission). And there was another angle. The commission was asked to assess federal-provincial financial relations "in the light of the powers, obligations and responsibilities of the Dominion and Province respectively under the Federal constitution."<sup>68</sup> This opened up matters considerably.

later and larger structure were to disappear, a little repair would enable them to keep out wind and weather, and be again what they once were, distinct and separate entities.<sup>71</sup>

The implication of the endurance of distinct identities was that the federation did not produce one new identity out of them. It did





Incredibly, Macdonald and Rogers later

"burdens." He attacked both the Australian

and Rogers reasoned, it should be required to

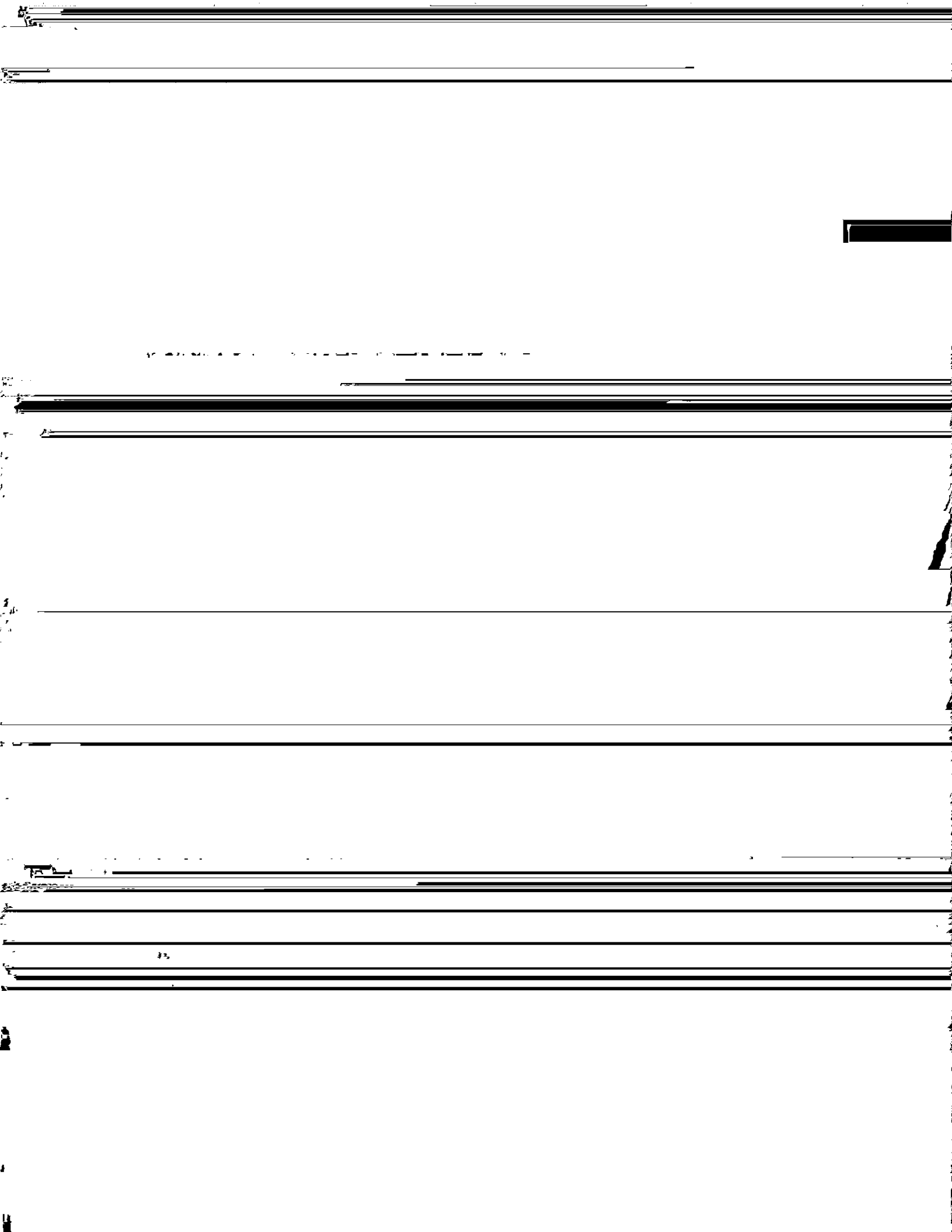
ism. There was no support for Macdonald's





parliament or the federal parliament to the provincial legislature(s), and in an agreement that specifies the conditions under which the jurisdiction in question is to be returned. He used the phrase "conditional reference" to

province-based image of federalism. Once again, he was influenced by the Australians who, he claimed, had been meeting annually and to good effect at such conferences since the country's founding in 1001. He appears



jurisdictional or representational, simply claim of provincial equality, and instead

**Notes**

*Canadian Federation*, prepared for the  
Royal Commission, Provincial Economic

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25. See Jennifer Smith, "Canadian Confederation and the Influence of American Federalism," *Canadian Journal of Political Science* 21:3 (1988), 449-55.
26. "1787 and 1867: The Federal Principle and Canadian Confederation Reconsidered," 1018.
36. *Ibid.*, 1020
37. Smiley and Watts, *Intrastate Federalism in Canada*, 121, 127.
38. *Ibid.*, 139.

place." See "Constitutional Politics and the Legacy of the Provincial Rights Movement in Canada," *Canadian Journal of Political Science* 18:2 (1985), 294.

49. See David Kwavnick, "Introduction," in

tives and the Structure of the Political Executive" (unpublished masters thesis, Dalhousie University, Halifax, 1993), 26, 46. Another indicator was the land question. The Maritime provinces could not increase in size while other provinces

the Acadiensis Reader: Volume Two, 2nd ed.  
(Fredericton: Acadiensis Press, 1988), 37-39

*cal Economy*, compiled by Eric W. Sager,  
Louis P. Fischer and Stuart O. Pearson



it was too late to reinstate him.

71. *Submission*, 1934, 2. The citation is not entirely accurate; there are missed commas, a misspelling, and Bryce's "edifices" becomes "entities." Bryce was a good choice for Macdonald because in the first edition of his two-volume study on the United States in 1888 through to the 1911 edition, he carries the same short chapter on the nation and the states, in which he goes to emphasize the state-based nature

They were a source of irritation to the Macdonald government because, like pensions, there was a requirement of matching provincial grants.

81. *Submission*, 1938, 37-8.

82. *Ibid.*, 44, 46.

83. *Ibid.*, 125.

84. *Ibid.*, 52.

85. *Richard Stinson and The Politics of*

McDonald, *Canadian Federalism* (1987)

Chapman, *Canadian Federalism* (1987)

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sovereign within their sphere defined by the British North America Act, but none of them has the unlimited capacity of an individual. They can exercise only the legislative powers respectively given to

tary benefits in 1964.

110. "Fiscal Federalism: The Politics of Intergovernmental Transfers" in Francois Rocher and Miriam Smith, eds., *New*