



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

**The Council of the Federation: Conflict and Complementarity
with Canada's Democratic Reform Agenda**
Roger Gibbins*

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

The objective of this short paper is to explore the potential impact of a new Council of the Federation (hereafter the Council) on Canada's democratic reform agenda. Given that the Council has yet to be created and the reform agenda itself is embryonic, there is necessarily a good deal of conjecture in the analysis that follows.

Nonetheless, the potential impact merits a careful look before we go too far down the path of embracing the new Council. Movement in this direction may be more attractive if it complements the movement for democratic reform, and less attractive if it will potentially weaken or derail that movement.

Let me begin, then, by sketching in the two sides of this relationship. First, the Council. At the time of writing, it is by no means clear what form the Council will take. For the sake of argument I will assume that the Council:

will go ahead, taking on a modest range of functions beyond (but also including) serving as the ongoing secretariat for the Annual Premiers' Conference.

will not have a decision-rule beyond unanimous consent, and therefore will not operate as a governance institution.

will promote more frequent and formalized First Ministers' Conferences than we have seen under the Jean Chrétien governments.

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will be confined initially to the 13 provincial and territorial governments, although it will confront demands for representation from Aboriginal peoples and large urban centres.

will slake but not quench the federal government's thirst for unilateral policy initiatives entailing both substantive and financial entanglement in provincial areas of jurisdiction.

will face vigorous competition for political voice and influence from a variety of federally-created intergovernmental and consultative mechanisms, with the proposed Health Council playing a particularly significant role.

In short, I am assuming that a Council will be formed, that it will reduce some of the friction within intergovernmental relations, but that its impact on federal governance will be relatively modest. It will be an evolutionary rather than a revolutionary change in Canadian political life.

Now, others may assume a more robust Council, and indeed this may happen over time. However, given the limited constitutional space within which the Council can operate, the great difficulty in constructing a decision-rule other than unanimous consent, and the problems in operating effectively when constrained by the need for unanimous consent, it seems safer to assume that the Council will start small, and that its evolution into something more grandiose will be both slow and gradual.

