

COMBINING THE AGENDAS: FEDERALISM AND DEMOCRACY¹

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But they can also be in tension with each other. First, some conceptions of democracy, especially majoritarian or populist versions, can

This conference focused on two broad themes: recent developments in intergovernmental relations in Canada; and ways in which we might address the 'democratic deficits' within Canadian political institutions. Both were interesting. But there was little connection between them. The discourse about IGR – intergovernmental competition, ways to achieve greater harmony and coordination; asymmetry or not; the implications of the Council of the Federation seem strangely disconnected from the discourse on democratic weaknesses – accountability, representation, participation, and the like. In these concluding comments, I hope to tie the two themes a little closer together.

The basic question is how federalism can better serve democracy, and what are the implications of a renewed democracy for federalism in Canada? We need to begin with some basic – and long-standing -- questions about the relationship between federalism and asymmetrical federal systems, and so on. In many other obvious ways, democracy and federalism do go together.

¹ This is an edited version of remarks made at the conclusion of the conference. It draws extensively on the discussion that took place, as well as on previous work by David Cameron, myself, and others.

to find new ways to open up and democratize intergovernmental relations.

In hindsight, these expectations turned out to be wrong. The Agreement on Internal Trade; the Social Union Framework Agreement, and other recent accords have all, for the most part, been negotiated in the traditional closed door processes of executive federalism. Most strikingly, the founding documents of the Council of the Federation suggested that it is classic First Ministers Federalism with hardly a single bow to a more participatory, transparent kind of system or to the involvement of legislatures. I don't want to argue here that all intergovernmental relations should be carried out in full public view. I think it's probably true that people tend to worry less about the democratic deficit in intergovernmental relations than they wonder if governments will get along. But still, Smiley's charges do remain effective as they ever did.

Another huge challenge for executive federalism and democracy is the incredibly complex tangle of accountability associated with it. We have the federal parliament spending money over which it has very little control. To exercise real control would require high levels of conditionality in federal transfers, which are unacceptable to provinces. So we undermine the federal government's accountability to parliament. The stricter reporting mechanisms in some recent agreements go only a small way towards dealing with this. Then we have provinces spending money for which they have not taking the responsibility of raising, undermining their accountability to their own legislatures. More fundamentally, in a collaborative model of intergovernmental relations, how do we balance the accountability of governments to their own legislatures with the accountability of governments to each other? This is a very hard circle to square. So the more we embrace collaborative federalism, with governments making decisions collectively, and the more we move toward a multi-level type of government which is not just provincial, but also local, regional, international, these questions of accountability become ever-more complex. While collaborative, multi-level governments

may be essential for effective decision-making, the challenges they pose to citizens in order to be able to understand and participate in the process are very great.

Before we jump on the bandwagon of collaborative federalism, which I admit I have tended to do in the past, we need to give one or two cheers for competitive federalism. Perhaps one answer to some of the democratic deficits associated with executive federalism is to have less of it. That is to say, while understanding that collaborative federalism grows out of this extraordinary interdependence among governments, it is still desirable to try to clarify who does what and to have single governments responsible to their electorates and legislatures for what gets done as much as possible.

So the question remains: how we can work on both federalism and democracy at once?

We might begin by asking how we might reduce the democratic deficits associated with executive federalism. First, can we, should we, open up these intergovernmental processes much more to the media and the public? If we were to eventually have annual first ministers conferences, should all, or part of them, be open? Again we reach a Lijphartian concern: if we have open meetings, governments may grandstand for the folks back home, so there is no way we're going to get an agreement without having closed doors. But I think there is an alternative argument to that which says that actually more public scrutiny might create very strong pressures for these governments to focus on the substance of the issues that they are debating than on the issues of turf protection and credit claiming and blame avoidance, which so bedevils intergovernmental relations today.

A second and more important area in which we can bring these two agendas together is through a much larger element of "legislative federalism" -- that is, greater legislative involvement in and scrutiny of intergovernmental relations. It seems to me that the parliamentary reform agenda that we talked about so much in our discussion of democracy must include things like standing committees

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on intergovernmental relations in all our legislatures. With the exception of Prince

So, to conclude, there are real tensions between the two agendas of democratic reform and improving the conduct of intergovernmental relations. It is important to bring them together. Federalist reformers need to keep a sharper eye on the democratic deficits in executive federalism. Democracy reformers need to be more sensitive to federalism values and the complexities of intergovernmental coordination. No remedies to the democratic deficit are going to set aside federalism. They must take account of the dilemmas of democracy in a bi-national and very provincialized society. The good news is that as one surveys the lively democratic reform landscape in different jurisdictions across the country, the virtues of federalism in encouraging experiment and innovation are very much in evidence.