

Federal-Provincial Conferences: Their Implications for Legislators and Political Parties

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Federal-provincial conferences have become a quasi-institutional part of our system of government. It is sometimes argued that these conferences leave federal and provincial parliamentarians with the largely perfunctory role of debating decisions which have already been taken. In this article a former minister responsible for federal-provincial relations tries to separate fact from fiction regarding federal-provincial conferences and their implications for politics in this country.

I want to advance three propositions about the use of federal-provincial conferences in Canada and discuss them in the light of my experience on Parliament Hill. The first proposition is that the rapid increase in what is essentially an ad-hoc mechanism has serious consequences for members of federal and provincial legislatures who may be asked to approve, in a rubber-stamp fashion, decisions of the eleven governments. A second proposition is that members of the opposition, in voicing their disapproval of government action, may well take on the role as "defenders of the provinces" and thereby weaken their position as "speaking for all of Canada" and as a "government in waiting". I do not mean that provincial governments do not need defenders in Parliament or the federal government in provincial legislatures, but we should recognize that this is a problem.

The third proposition is that political party distinctions decrease in significance when debating federal-provincial problems and that regionalism becomes of greater import than party differences.

The Nature of Federal-Provincial Proposals

Following a federal-provincial conference, parliament and the legislatures are often asked to approve measures which have originated outside their respective jurisdictions. Matters such as energy pricing, the economy, the constitution, pensions and other issues are clearly of such importance that federal and provincial members

will argue that their direct participation in the formulation and approval of legislation on these subjects is imperative. Alternatively, governments may take action within their own authority, perhaps through the use of regulatory powers, to implement agreements without the necessity of parliament or the provincial legislatures being asked to give their consent. Like the iceberg, some 95% of federal-provincial meetings between governments are not reported at all, since they take place between officials. The results of those deliberations, however, often show up in regulatory decisions as well as legislative initiatives without any formal link to the federal-provincial relations process.

Since such events clearly do take place, can it be argued that the federal parliament or the provincial legislatures are being weakened? Is the quick passage of measures originating elsewhere tantamount to "rubber-stamping"? I am, at the very least, reluctant to say "yes". After all quick passage, or slow passage, of a bill is by no means unique to federal-provincial legislative matters. Whether there is a majority or minority government parliament, when dealing with government proposals, invariably makes a decision, either actively or passively. This is not to say, however, that legislative proposals stemming from federal-provincial discussions are not in origin different from government initiatives.

Federal-provincial proposals may be a response to issues which occur at a time when the government of the day has not the advantage of using its resources as it nor-

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mally would. That is to say external factors may determine *when* the central government has to bring forward certain measures. The subject matter brought forward for parliament's approval may not be a part of the government's legislative intentions as outlined in a Throne Speech. The subject matter may not have received the ruling party's approbation — as evidenced through the mechanism of regional and national policy conventions. If expenditures are contemplated, or tax increases envisioned, such proposals may not be a part of the government's anticipated expenses as announced in the estimates or indicated in a budget speech.

But none of these considerations are unique to measures stemming from federal-provincial discussions. Parliament and legislatures may well be called upon to give their approval to government measures during the course of a session, or a parliament, about which they had no previous notice.

Furthermore not all legislation emanating from federal-provincial discussions raises more wrath in the House than that originating from the government. It is quite clear that the public and private deliberations of such meetings can generate a great deal of controversy. Anyone who has watched even one federal-provincial conference on television is aware of the acts of intransigence, the forceful protection of interests, the shameless parochial speeches, and even at times, actions which threaten the very fabric of the federal state. Consider the forum; the panoply of experts, the armada of media people, a round table, a "U" table . . . all enough to make an admirer of the United Nations at its most acrimonious, feel at home. Such conferences have become a "big show", and conflict is the name of the game.

When the results of such turbulent affairs reach the floor of the House of Commons in the form of a bill, it is something of an anti-climax. Wounds have been suffered and bound up, sides taken, compromises made, all before a bill appears on the Order Paper. Remember, most legislation of a federal-provincial nature is a compromise between the federal government and the provincial governments. While this is not to say that controversy is absent the roots of which can be traced to prior federal-provincial conferences, there is little to rival the sexless nature of such a bill.

One reason for this state of affairs is that the federal-provincial forum contains the entire spectrum of political parties found throughout the country. They include those who may not have representation in Ottawa, such as the Social Credit Party in British Columbia. If the bill has resulted from a federal-provincial compromise, then there is very little for the

parties in parliament to say. Such a bill goes through with little intense debate.

Since all federal political parties are usually represented at federal-provincial conferences in one way or another, all parties have a stake in the discussions. If an agreement is reached, the necessity of implementing it usually extends to all parties in parliament and in other legislatures. In effect, the house is more anxious "to do the right thing" with federal-provincial legislation than it is with other legislative initiatives.

REGIONALISM AND THE CENTRAL GOVERNMENT

There is another aspect to legislation of a federal-provincial nature. What I have discussed so far is legislation coming from a conference in which the governments all agreed. Now I shall look at federal-provincial legislation where there may be a division between the federal government and the provinces, or a split between some provinces and the federal government.

In the unbalanced political situation we now have, with the federal government drawing its support from three of the four regions of the country, but having no provincial governments held by its provincial wings, some provincial initiatives may be seen as the voices of those parts who have no government representation other than from members of the opposition. Of course, the federal government will claim with equal certainty that it governs for all the country. When the parliamentary process works well, the opposition is able to articulate its views and in turn the government can take due cognizance of the views espoused.

But what of the view that the opposition may tend to become "defenders of the provinces" and thereby minimize their role as federal legislators?

When we have a bill that effects federal-provincial relations and where there is no agreement between the federal and provincial governments, then we have a situation which causes many problems for parties represented in parliament. Since most parties have sister parties in the provinces, the conflict between what may be seen in the "national interest" and what may be seen as a "provincial interest", or regional interests puts parties and individual members on the spot. We have seen this problem in the constitutional debate as well as the debate on the National Energy Policy. I shall not spend any time reviewing the specific impact of these two federal-provincial questions on the various parties in parliament except to say that they have caused a great deal of pain and anguish to those caught in the middle. But I will draw some conclusions in general terms about

the problem I raised earlier, the position of parties in the federal house defending provincial governments, and of course, the opposite situation in provincial legislatures.

If a party wishes to assume the mantle of defender of the provinces, it brings into question its assumed role as a "government-in-waiting". The opposition it presents would not be on its own terms but rather on those chosen by the provincial governments and usually amended somewhat by the party involved. The party's freedom of manoeuvre becomes less and, to some extent, it gives up its own national vision. If that happens, then the party finds it difficult to make decisions on other policy issues as well. One does try to keep ones allies satisfied. Such a system puts more pressure on a party seeking to present alternative national points of view. It can lead to parties ending up with a shifting regional point of view. I want to emphasize that this can happen to a party whether it forms the government or sits in opposition.

In addition to the advantage of the political affinities the opposition may have with its provincial counterparts, there is currently one parliamentary mechanism which enables the opposition to focus on initiatives coming from intergovernmental talks denied to the government backbencher. I refer to the concept of supply days. These days are in the control of opposition, permitting them to discuss a subject of their choice on 25 sitting days a year. These days can be used to champion, or otherwise, the views of the provincial governments, or an alternative view of federal provincial relations. There is considerable scope for the opposition in their field but it does not seem to be used significantly to discuss federal-provincial affairs except in a peripheral way.

IMPLICATIONS FOR PARLIAMENT AND LEGISLATURES

The growth in federal-provincial conferences cannot be neatly divided into consequences for the government and/or consequences for the rest of the members of the house. Rather cause for concern exists in terms of the implications for parliament and legislatures and in particular for those who are not a part of the cabinet, but members of the opposition as well as supporters of the government. Ministers ought to be able to protect themselves.



There is enough hue and cry that members of parliament cannot cope with existing bureaucratic structures. In federal-provincial relations there is another growth of bureaucracy. This new growth is much more difficult for members to penetrate because parts of it are once removed from most departments. At the federal level it is more frustrating for members because the practice has been not to centralize federal-provincial decision-making at any level, even when the experiment with ministers of state for federal-provincial relations was tried. At the federal level, each department makes its own accommodations with provincial governments; we do not have the equivalent of a minister responsible for federal-provincial relations, with a relationship similar to that of the Secretary of State for External Affairs in Canada's relations with other countries, in the way that some provinces have organized their federal-provincial affairs.

So, as I see it, parliamentarians collectively are confronted with a new federal-provincial bureaucracy in their role as ombudsmen. Backbenchers collectively are faced with a level of governmental intricacy unknown and unassailable to most. It is a marvellous labyrinth, designed to confuse, confound and sap the energies of all but the most single-minded and persistent adventurers. Over the past twenty years, we have specialized in making federal-provincial agreements to get around the constitution, and the result is the present maze of federal-provincial confusion.

SOME SUGGESTIONS FOR THE FUTURE

Governments should not ignore the legitimate concerns of members of all sides in their desire to participate in the increasing number of federal-provincial discussions while at the same time seeking parliamentarians' approval of measures stemming from such talks. Insofar as the Parliament of Canada is concerned there should be a federal-provincial committee with a permanent reference. The government has proposed and Parliament has created a Task Force on Federal-Provincial Fiscal Arrangements. When that Committee completes its work its terms of reference should be renewed with a new mandate to look into all aspects of federal-provincial activities. When I was a Minister of State for Federal-Provincial Relations, I was astounded to discover there was no committee to which I could report.

The federal cabinet should ensure a mechanism exists enabling those members who wish to participate in federal-provincial deliberations to do so; either formally or informally, by having space available, providing documents — including the agenda, and by identifying officials of the federal-provincial bureaucracy whose task it would be to assist members.

The federal and provincial governments should review their dealings with each other to diminish the prevailing sense of conflict with the Canadian structure. From the federal point of view, both the political and administrative structures require re-examination which might be accomplished by a vigorous, yet understanding, committee responsible for federal-provincial relations and their provincial counterparts. Such a committee would, however, have to earn power within the parliamentary system to develop an ability to influence policy in this field. An example worth looking at would be the Danish Committee on the Common Market. There is also the very good example of the Quebec National Assembly Committee on Inter-governmental Relations.

At the present time, there is no formal mechanism within the federal parliament for discussion of federal-provincial affairs in a systematic way. This situation is

not the result of a plot of the government. There has been little pressure by parliament to engage itself in this field. I believe the parties see the political problem presented to themselves because most parties have and expect to have their provincial counterpart become the government of some of the provinces some day, just as they see themselves as becoming the majority party in parliament. These interrelationships can make life difficult for parties, as happened during the constitutional debate. It has been the result of this insight which has led the parties in parliament to soft peddle the question of federal-provincial relations. But I feel that parliament must inject itself more into this field, however painful it may be to individuals and parties. It is too important to be left to mauling bureaucrats and jealous governments.

There is little doubt that a new, and important, dimension of government has entered the lives of Canadians in the form of federal-provincial consultations. Legislators at the federal and provincial levels of government should legitimize this process by sharing control with the various cabinets and their officials.

Riven as we are by regional and inter-governmental conflict of an alarming level, imaginative measures are called for. Members of all legislatures can well play an important and conciliatory role as they perform their functions as members of the various legislative assemblies of Canada. The problem is not caused by only one level of government, and solutions should not be sought in only one place either.

Members of parliament can do this only if they demand to participate more extensively in the federal-provincial deliberations in their own legislative assemblies, if they are given the opportunity to learn the views of provincial confreres and if they develop a full understanding of our federal system. This may well mean, because of the changing nature of our society, an acceptance that tension in the Federal system may well be a result of those changes. We do not live in a static society.