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INTERGOVERNMENTAL RELATIONS AND THE CHALLENGES TO
CANADIAN FEDERALISM

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Preface

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Now is perhaps a particularly good time to step back and ask where the evolution of intergovernmental relations is taking us, and to assess the effectiveness of the institutions and processes of intergovernmental cooperation. A new government in Ottawa is thinking through its own approach, trying to put flesh on its promise of a new era of cooperation with the provinces. Last fall and winter, much of the underbrush in the constitutional negotiations was cleared away. That debate apparently will not be reopened in earnest until after the Quebec referendum, but it would be tragic if all governments did not use the brief breathing space to think through how the Canadian federal system can be made more effective and more legitimate.

The problems of intergovernmental relations lie at the heart of the crisis of the Canadian federal system. Indeed that crisis can be defined largely as one not so much of our social or economic systems, but of our political institutions - of the relations between governments, of the division of power and responsibility between them, and of the ways in which they deal with each other. For while the underlying roots of the crisis of federalism lie in differing concepts of community, in regional economic tensions, and in linguistic differences, all those tensions are mobilized, channelled and expressed through Canada's federal and provincial governments and their leaders. Any resolution requires if not a redefinition of the powers of these governments, then at least a new consensus on the structure of political authority. Thus, intergovernmental relations, expressed mainly through the federal-provincial conference, are simultaneously the arena within which the multiple tensions of Canadian life are expressed and fought out, and the forum which is expected to work out and resolve those tensions. Partly as a result of the failure of other mechanisms of accommodation, notably the national party system, the executive and administrative process of federal-provincial conferences bears an immense political burden. It

has become the main device for national integration.

Thus the problems of intergovernmental relations go far beyond questions of administrative procedure and machinery. They simply cannot be discussed separately from the general question of the future of the federal system and its constitution. Nor can they be discussed separately from the other economic and social challenges which face Canada, since responses to those too are so highly dependent on federal-provincial agreement.

The three fundamental questions we must ask about federalism and intergovernmental relations, therefore, are:

- first, are the regional divisions so deep, the competing ambitions and development priorities of federal and provincial governments so different, and the policy instruments for policy-making so widely shared among the two levels of government that we are unable to meet the challenge to develop coherent national economic and social policies?
- second, are the ethnic and regional tensions so great, the forces of province and Quebec nation-building so strong, the integrative factors so weak that we will be unable to resolve the constitutional issue, short of fragmentation.
- third, is the present, or potential, machinery of intergovernmental relations able to meet these two challenges?

This is the context in which I want to discuss the theme of this conference - on intergovernmental Canada. I want to look at some of the challenges that face the system, to trace the recent evolution of the machinery and to look at some of the main criticisms levelled against it.

And then I want to ask some questions about the future. Under any conceivable reorientation of Canadian federalism, intergovernmental relations will play a critical role, and it will still be important to improve the machinery. But we are still left with a choice: do we push further a model of federalism which seeks to place these relations

even more at the heart of the Canadian system - by moving further in the direction of what might be called collaborative federalism, a system in which national policy is jointly made by the federal and provincial governments acting together, truly a government of governments. Or do we instead seek ways to minimize the need for intergovernmental collaboration? That would require adoption of another model - either a move to some kind of "classical federalism" in which each level of government independently exercises a given set of powers, or a return to an earlier Canadian pattern which saw the central government as the primary instrument of national policy - a view reflected in many provisions of the original British North America Act, and which flowered most recently during and after World War II.

At the heart of this debate lie widely differing conceptions of the Canadian community. Is there a national interest, distinct from the interests of provinces and regions? How is it to be defined and expressed? Is Ottawa merely one among eleven governments? Is it only provincial governments that can represent provincial/regional interests, or does Ottawa do so as well? Is the arena for accommodation of regional interests to be the federal-provincial conference or the parties, caucuses and cabinets in Ottawa?

Before outlining some of the tensions in Canadian federalism and before launching into criticisms of the intergovernmental process as it now exists, two qualifications must be stated. First, Canadian governments are not alone in finding it harder to manage the conflicts and contradictions of the contemporary world; nor are they alone in finding it difficult to generate coherent policies. Indeed the fragmentation of authority between federal and provincial governments is merely our Canadian version of a more general phenomenon - one which is expressed in the United States, for example, in the immobilism resulting from fragmentation of authority within Congress and between it and the President. To take energy policy, as one example, the difficulties of policy-making in Canada pale before the problems Mr.

Carter faces. In many advanced countries, there seems to be a disjunction between the challenges of policy-making on one hand and the effectiveness of political institutions on the other. Those difficulties become much sharper when more and more areas become subject to government intervention, and when, instead of an expanding pie, we are faced with the politics of scarcity. Both tendencies mean that "who gets what?", or the politics of distribution, becomes much more central and difficult to resolve. In Canada, we think of such questions in terms of regional "balance sheets", because this territorial dimension is built into our political institutions, but the problem is general: it relates to a widespread lack of faith in the ability of governments everywhere to cope, to disagreements about the role government should play between interventionists and free marketers, and to the deep problems faced by all advanced industrial societies, such as energy, inflation, and unemployment.

Second, it would be wrong to think that Canadian governments are paralyzed by federal-provincial conflict, or that federal-provincial agreement is impossible. There are notable successes - in fiscal arrangements and equalization; in establishment of the welfare state through federal-provincial cooperation; even in the economic summits of last year, which, if they did not lead to the joint medium term economic policy some hoped for, did produce some consensus on basic directions for policy. Despite the acrimony over oil pricing and revenues, it could be argued that the present trade-offs between producers and consumers and between federal and provincial governments, achieved through intergovernmental negotiation, are as fair to all sides as one could imagine any other process producing. Similarly in a great many areas federal-provincial cooperation proceeds largely unnoticed. The intergovernmental mechanism breaks down when issues are posed in sharp regional terms, or when the institutional interests of governments are directly involved. The greatest failure is in the constitutional negotiations, past and present, where both these forces combine, and where it doesn't seem possible to move without complete unanimity.

Despite these qualifications, it is clear that the process of intergovernmental relations faces immense challenges and there is widespread pessimism among both practitioners and observers about its ability to meet them. Intergovernmental relations have become, in some views, at once more highly institutionalized and elaborate and less effective; at once more central as policy-making institutions, and more political, conflictual and unable to agree.

The political challenge to the process lies in the growth of the forces of provincialism and Quebec nationalism and in the erosion of the legitimacy and effectiveness of the central government. The policy challenge lies in the need to develop effective strategies for development in an often hostile world setting. The latter suggests the need for greater coordination and planning; the former makes that much harder to achieve.

The most direct challenge is the growth of the drive for Quebec's autonomy as a distinct society or nation - a drive which long predated the election of the Parti Québécois, and which is not likely to disappear whatever the outcome of the coming referendum. This drive has shaped the federal-provincial agenda since the early 1960's. While much progress has been made towards official bilingualism at the national level, the basic issue of Quebec's drive to see the provincial government as the primary political expression of French-Canada has never been directly faced in federal-provincial discussions. To do so fundamentally threatens the federal claim to represent the whole country; while it also threatens the provincial view that all provinces are equal. In my view, however, any constitutional proposals which do not start from the proposition that Quebec is a distinct society oriented primarily to the provincial government are bound to fail.

The second challenge is the growth of provincialism. Its roots and strength are hard to measure. Its most important expression is the increasing power, self-confidence and assertiveness of provincial governments. Spurred by increasing fiscal and bureaucratic strength, by their control of natural resources, by conflicting economic interests and by a sense that federal policies have been ineffective or unfair to their province, provincial governments have increasingly

asserted that they reflect the regional will better than Ottawa can, and that they should engage in developing and implementing their own development strategies. This leads to conflict both with Ottawa and increasingly between regions, as the recent debate between Ontario and Alberta shows. It also leads to a claim for greater control over a broad range of levers and instruments of policy. There is little agreement on the appropriate division of labour between governments, on what is national and what is local or provincial.

The strength of underlying support for this provincialist drive is unclear. There is some evidence that new regional economic elites have linked themselves to more aggressive provincial states, and also that, among citizens generally support for provincial governments and approval of greater provincial power has grown, especially in the West and Quebec. On the other hand, there is little evidence of fundamental alienation from Ottawa, and considerable evidence that citizens of all provinces, including especially Quebec, are becoming more alike in their basic views about government and policy. Communities are at once more divergent and more alike. Most citizens have little difficulty in maintaining dual loyalties to province and centre. Regional differences are indeed important - but they alone do not sustain the tremendous emphasis on regional/provincial divisions which dominates Canadian political debate. The point is that it is these divisions, however, which are mobilized and expressed by political leaders, since federalism structures institutions on the basis of territory; and it blurs and fragments interests defined in other ways. It is much too simplistic to ascribe federal-provincial conflict solely to the machinations of power-hungry politicians, but there is a germ of truth there.

Provincialism is linked to the third political challenge: the apparent erosion of the ability of the Ottawa government to act as the arena for expressing and integrating regional views, or for defining a national interest that transcends region. In part this failure can be blamed on particular leaders and parties, but I think it goes beyond that.

The most dramatic indication is the failure of the federal party system. We no longer have a national system; both major parties have become regional ones. So long as that is the case, Ottawa's ability to speak for Canada, to win support for its policies in all regions, and to claim to represent them is in question. It therefore lacks not only control of some of the important levers of national policy-making, but also the political legitimacy to act decisively. Federal-provincial conferences thus come to play the role of representation and accommodation once played by strong regional leaders in Ottawa.

Along with the failure of representation in Ottawa is the sense that federal policies unfairly benefit some regions and hurt others - that "national" policy is too often a central-Canadian regional policy. Listening to all the grievances one sometimes gets the impression that all regions are "losers" in the Confederation balance sheet.

All these political forces - Quebec nationalism, provincialism, erosion of the centre - suggest that the overwhelming pressure is for decentralization. Regionalism and Quebec nationalism, the Task Force on Canadian Unity suggested, are not problems to be overcome, but characteristics to be embraced and promoted.

Against these forces, however, must be placed others, which perhaps push in another way. From many quarters we hear the call for national economic strategies; the need to plan and reorient Canadian industry to meet new challenges; the need to harmonize federal and provincial policies so as to permit greater consistency across the national market; the need to reduce growing interprovincial barriers to trade; and the need for a stronger, more united Canadian position in an international economy which is at once more interdependent than ever and more fragile and unstable than it has been for many years, and so on. In short, this viewpoint suggests that the imperatives of economic life push us in the direction of centralization. And, of course, that is what has happened in most other federal countries.

The Task Force on Canadian Unity and others have tried to reconcile this contradiction in two ways. One is to try to distinguish sharply between social and cultural affairs, which they would be willing to decentralize, and economic affairs, in which federal primacy would actually be

strengthened. The problem with this is that it is precisely in economic fields that provinces have become most active, while, equally, one could argue there would be little long-term support for national economic dominance without a continuing federal presence in social and cultural affairs too.

The second device is to represent the provinces in central institutions themselves and thus give them a greater role in national policy-making through a new House of the Provinces. The price of maintaining central power is a regional voice in its exercise.

The reality today is that we have two levels of active aggressive governments, often pursuing competing goals, and seeking greater control over the whole range of contemporary policy instruments. With this has come a shift in the issues which predominate in federal provincial debate. The major issues of the postwar period focussed mainly on fiscal sharing and on the use of the federal spending power in social policy - pensions, hospital insurance, medicare. There was a general consensus both on the thrust of policy - Keynesian economics and the welfare state - and on the legitimacy of federal leadership. Today the focus is on economic development, using the tools of taxation, regulation and public enterprise. Provinces have increasingly used them to promote their own development, to protect provincially-based industry, and to counteract both federal policies and market forces which seem to operate to the detriment of their region. They have demanded a greater provincial voice in national policies which affect these goals.

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Ottawa, asserting the need for aggregate national development, has used the same tools to help redistribute income, to manage change in the structure of the economy and to capture some of the benefits of increased resource revenues for the whole country. It has challenged provincial strategies in the courts and tested the limits of its own powers under Trade and Commerce and the emergency doctrine. Such actions are sometimes denounced as "intrusions" - an instructive term which nicely captures the competing drives for policy leadership. For "intrusion" is a two-way street - and what from one perspective looks like an unwarranted intrusion is, from another, just an expression of the national interest.

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The existing process of intergovernmental relations has grown out of and reflects the forces I have described. It is a product on the one hand of the growth of provincial power, and on the other hand of growing interdependence - of the extent to which virtually all important areas of contemporary policy cut across jurisdictional lines, of the fact that governments require the cooperation of others to achieve their goals and have great capacity for mutual frustration, of the need to avoid mutually contradictory policies, and most important, of the realization that the levers or instruments of policy are shared between governments. Any "national industrial strategy" would require deployment of a wide variety of tax, spending and regulatory measures, some in provincial hands, some in federal hands. Neither Ottawa, nor any province, alone can successfully formulate and implement such global strategies. They must collaborate.

In response to these contradictory pressures of political independence and policy interdependence, intergovernmental relations have steadily grown more pervasive. In some ways they have come to overshadow Parliaments and legislatures - yet nowhere are they given constitutional status.

More and more provincial governments - most recently Ontario and Saskatchewan - have felt it necessary to establish separate Ministries of Intergovernmental Affairs. Ottawa recently also established a ministerial portfolio in the area. This has provoked some interesting tensions within some governments as the professional federal-provincial bureaucrats, committed to the process of intergovernmental relations, to some extent displace line ministries and the finance department officials who have traditionally been the prime movers in the area. Several intergovernmental secretariats form the beginnings of a separate administrative apparatus to serve the process. Interprovincial conferences have taken on a new role - no longer largely social occasions, they are increasingly forums for interprovincial bargaining and for developing joint positions to take to Ottawa. The Western Premiers' Conference and the more ambitious but perhaps less successful Council of Maritime Premiers, have moved to develop more coordinated regional positions.

With First Ministers increasingly meeting before the television

cameras in the singularly appropriate Canadian setting of the old Ottawa railway station, the process has become more open and public. Federal and provincial governments are seen to be debating the great issues of the day. There is a powerful symbolism in seeing the leaders of the federal opposition parties sitting back behind the rope barrier, impotently watching the proceedings along with other observers. High politics in Canada has become federal-provincial politics.

The process has many critics.

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First, many commentators argue it is undemocratic. It reinforces the tendency towards executive dominance in the Canadian system. It further undermines Parliament and the legislatures. Despite a growing number of open conferences, the process tightens government secrecy. It dilutes the accountability of governments to the public. The eleven first ministers, Garth Stevenson recently suggested, are more like feudal barons dividing the spoils than democratic politicians.

The process has many other costs. Massive bureaucratic resources are committed to operating the process itself. The need for constant consultation results in delay, uncertainty and unpredictability in reaching decisions. The process dominates the substance of policy; not what will be done, but who will do it, who will bear the costs, who will get the credit or take the blame become the central preoccupation? These are real problems - but the criticism must be tempered by the realization that we are, as I said before, not unique in the complexity or cumbersomeness of our policy machinery.

It has also been suggested that the complex machinery and the intergovernmental competition for power and prestige and the duplication of effort has contributed to the inordinate growth of government in Canada. But I doubt that Canada is unique in this regard - and recent federal-provincial discussions on the economy suggest that the process can put on the brakes as well as step on the gas. Richard Bird and David Foot argue that "... it is a myth to assert that what has happened to public employment in Canada ... differs from what

has happened in ... other industrial countries." A related criticism is that intergovernmental competition - as the scramble to appropriate resource rents in the early 70's showed - can grind the private sector between the millstones of competing governments. Yet the reverse is also sometimes true - intergovernmental competition can offer advantages to groups.

The overwhelming stress on accommodating regional and provincial interests may also frustrate another kind of consultation which is equally required in contemporary advanced states - that is consultation between governments and the functional or sectoral interests, business and labour. Both provincial and federal governments - the latter especially through the recent Tier I and Tier II processes operated through Industry, Trade and Commerce - have increased such consultation. But there remains the problem of how to integrate these two processes, of functional and territorial consultation, since they involve different actors and different perspectives.

Another line of criticism is that the process, far from being an effective mechanism for the resolution of conflict, in fact exacerbates it. Indeed, it is even suggested that the emergence of larger ministries of intergovernmental affairs - an internal diplomatic corps - creates a group whose sole raison d'être is to look out for and promote their government's interest, and for whom the federal-provincial game is an end in itself. The process engages institutional rivalries, not real policy disputes. Moreover, increased provincial competence, and increased access to information mean that the teams are more evenly matched than ever before; few provinces are now willing to defer to federal expertise.

Those who look to federal leadership also argue that the process undermines federal authority and blurs the division of labour between governments by providing a forum in which provincial premiers can influence federal policies and by putting them at the same level as the Prime Minister. Some federal officials appear to have had second thoughts about the value of the economic conferences of 1978 because they gave a

platform for provinces to debate the whole range of federal policies. The problem here, of course, is that no longer do we agree just what is the proper role for federal or provincial authority. And there is the alternative view, often heard from Quebec, that conferences really represent little more than a cover for an extension of federal power.

Finally there are criticisms more narrowly focussed on the procedures of the process, and these in turn are related to differences in what one expects it to achieve. Thus, the lack of a large infrastructure of bureaucratic support for the process; the lack of any voting mechanism and procedure for reaching agreement and terminating debate; the ad hoc nature of conferences; the lack of clear lines of authority between First Ministers' and other conferences and the long cumbersome agendas, are all much more serious if one expects the conferences to be devices for making collective and mutually-binding policy decisions than they are if the goal is a much more limited process of deliberation, harmonization and exchange of information.

The recent economic and constitutional conferences illustrate some of the problems. Called to focus attention on medium-term economic policy, and to demonstrate to the public and business community that Canadian governments could cooperate and did have a handle on the economy, the economic conferences of 1978 did have some success, especially as an exercise in public education. There was a general consensus on a series of broad goals, like reducing duplication and cutting expenditure. But the conclusions were at a very high level of generality - motherhood almost. There was little evidence the conferences could resolve the much harder issues or end up with much more than some lowest common denominator position. Many participants and outside observers saw the conferences as little more than a giant public relations exercise. Others remain more optimistic and suggest that here is the start of a developing process for collaboration in economic policy-making. The exercise also showed that however much governments are rhetorically committed to consultation and cooperation, their own priorities and their own particular political situation mean consultation will often be honoured in the breach. The federal budget cuts of August, 1978, are a case in point.

After the second conference, Le Devoir observed that: "The leaders recognize the necessity of consultation... They said it a hundred times. But in practice they behave otherwise."

The record suggests, though, that however messy and drawn-out the federal-provincial forum is able to achieve at least some measure of coordination on many issues, and can achieve trade-offs between the competing regional and governmental interests. *ewi Jan.?*

That has not been true of negotiations on the constitution - and failure here pervades and complicates the process on many other questions. The constitutional review engages the most direct institutional interests of the governments involved. Without much public, Parliamentary, or interest-group access to it, few alternatives which undercut the interests of any of them can be considered. The convention of the need for unanimity means that any single government can veto any proposal. There are few incentives to agree, few penalties for refusal to compromise. Tentative agreements on one issue can easily fall apart when others come up - one has a sense of continually returning to square one.

But, in the recent talks of October, 1978 and February, 1979, some progress was made. Ottawa and the provinces had always brought different priorities to the table - the former stressed linguistic and individual rights, reform of central institutions, amendment and patriation, while for most of the latter the issue was always the division of powers.

The joining of these two agendas last October opened the possibility of a package deal - and indeed some of the outlines of such a deal began to emerge - with compromise agreements even on such thorny issues as the trade-off between provincial resource ownership and federal trade and commerce seemingly tantalizingly close. With a different political atmosphere, it seemed possible that most of the grievances of the provinces other than Quebec could be met.

But a third agenda - Quebec's - was not and could not be addressed. No other government was prepared to debate the fundamental issue of sovereignty; the government of Quebec could not seriously consider a revised federalism. Nor is it at all clear that either

Ottawa or other provinces would seriously consider even the more traditional Quebec goals of a substantial transfer of power to it. And of course the Quebec federalists could not be at the table. Many of the twists and turns in the debate since the early 1960's reflect the search for ways to respond to the mobilization of French-Canadians while denying any special role for the province of Quebec, either by increasing representation of French Canadians at the centre, or by decentralization to all. Neither of these alone is enough. The irony is that the Quebec challenge which generated the whole process cannot easily be directly faced in the federal-provincial context.

The issues in the constitutional debate and the complexities of the existing federal-provincial policy process raise the basic question: what will be the role of federal-provincial relations in the future? Will we move towards expanding the process; should we try to minimize it?

Let us illustrate the alternatives with a brief exchange at a recent First Ministers' Conference. "Who", asked Prime Minister Trudeau rhetorically, "will speak for Canada?" The implication was that Ottawa must. This became a major campaign theme in 1979 - Ottawa must not "give up the store" to power-hungry provinces who were undermining legitimate federal power in the pursuit of parochial interests. But Premier Lougheed of Alberta leaned forward and said: "We all do". Eleven governments speak for Canada; provincial governments speak for their regions.

Oddly enough, at the conclusion of the first economic conference in 1978, Federal-Provincial Relations Minister Marc Lalonde seemed to support this view:

A century ago Sir John A. simply announced what his policy was going to be... By contrast, any policies and processes we decide upon in this area today will emerge as the result of the process of federal and provincial consultation.

Each of these two positions embodies a different set of assumptions about the federal system and about how policy should be made. The first position assumes that there is a national interest, and that

the proper institution for identifying, defining and implementing it is the federal government. Thus, while it accepts the desirability of consultation and the need for federal-provincial agreement on some issues, the thrust is clearly towards federal dominance. Ottawa is not just one other government. At least for certain purposes Ottawa is just as representative of regions and language groups as are the provinces. [The national interest is more than the sum of provincial interests.] It is misleading to think that regional interests are the only important issues, or that provinces are internally united. In some circumstances when it comes to the crunch the national majority can and must overrule provincial majorities. Regional interests are not the same as provincial government interests.

From this perspective flows a conception of the division of powers and the conduct of federal-provincial relations. It is vital to maintain the Canadian common market, and Ottawa's role as the protector of free movement of goods, services, labour and capital. The federal power over Trade and Commerce must be defended. Its ability to act in times of national emergency - as in the anti-inflation program, or perhaps in the energy field - must not be eroded. Few limits should be placed on federal use of the spending or declaratory powers. Ottawa must maintain sufficient fiscal resources to manage the economy, to engage in redistribution and so on.

Most analysis in this vein focusses on the national economy, but many also stress the need for similar federal capacity in other areas as well, in fields like education, culture and language.

In the face of resurgent provinces, this view of the focus on Ottawa as the national government has been on the defensive. Even while refusing to "give away the store", federal leaders have in recent constitutional discussions made some important concessions. Nevertheless the federal list - at least the Liberal one - of agenda items for the second round of constitutional debate after February included several items - powers to combat unemployment, inflation and a weak dollar, internal barriers to trade, regulation of securities and competition and minimum wages - all designed to shore up its power in the economy. Again the implication is that federal access to these tools

of national economic policies is vital.

In this Ottawa-centred conception, some would go further and argue Ottawa needs greater economic powers if it is, for example, to generate a national industrial strategy. How could that be done without greater federal control of energy, labour relations and the like?

Along with these powers, however, this model carried political implications. It means Ottawa's ability to represent all regions must be strengthened, whether by nationalizing the party system so as to return to the classical model of regional representation and accommodation in the centre, or by creating a more regionally representative Second Chamber - one which would, as in Bill C-60, not strengthen provincial governments, but undermine them. Similarly, this approach would be cautious about extending the scope of federal-provincial relations in national policy-making, since that only increases the visibility and status of provinces. It would give greater weight to federal consultation with business, labour and such interests, defined functionally, not territorially.

The view implied by Premier Lougheed is quite different. It breaks the equation between national interest and national government. The national interest is, instead the result of the pooled interests of 10 provincial/regional communities. The governments of the provinces represent the interests of these communities far more effectively than does Ottawa. The national interest has no moral claim superior to the provincial interest. The federal and provincial governments are political and juridical equals. There is no senior government. Provincial communities are also equals - no national majority can override the provincial will.

From this perspective flow a quite different set of constitutional objectives. There is a call for greater provincial control over the crucial tools of regional development - oil, gas, minerals in the West, fisheries and off-shore minerals in the East, and so on. The Trade and Commerce power should not override provincial resource ownership; the federal declaratory, spending and emergency powers should be restricted and subject to provincial veto. There should be direct provincial input

into federal policies which affect them.

If there is a national interest, it is not an overriding one. And it is to be discovered and implemented by eleven governments acting collectively.

This model, besides strengthening the provinces, has major implications for intergovernmental relations. The federal-provincial conference would become perhaps the central national policy-making body. The government of Canada would be the federal-provincial conference.

In the present Canadian context both these models of federal dominance, and of a kind of confederal system, are unrealistic in their pure form. No federal spokesman really believes Ottawa can act alone, much less that in the present context much greater centralization is possible. Few provincial leaders espouse the pure provincial-collaborative model or deny utterly a national role for Ottawa. But the two tendencies are strong; the issue is not which one will be adopted holus-bolus, but which are we to move towards?

Both models have major opponents and major supporters. The centralist model is anathema to most thinking, federalist and non-federalist, in Quebec: indeed it is hard to believe that Quebec would remain in Confederation if it were adopted. But several other provincial governments, perhaps with considerable popular support, also argue against the model; they do not accept federal primacy either. It is simply impossible, they argue, to govern a country as diverse as Canada from the centre; they reject what they see as federal paternalism.

Opposition to the collaborative/provincial model comes from many sources. There is of course the federal government itself, obviously committed to a national role. My impression is that the national business community, in general, would strongly object to the fragmented national market and uncertain political climate greater provincial power implies. Moreover, they and others would argue that collaborative mechanisms would be ineffective policy-makers - obstructionist, slow, conflicting, and so on. Canadians concerned with developing national strategies, and fearful of Canada's ability to

survive in the global economy would also oppose the collaborative model. Most important, some argue that nowhere in this model is there room for a conception of a Canada greater than its parts. Again pushed to the extreme, there is no independent base for a legitimate, effective central government; instead it merely becomes the administrative agent of the minimum degree of economic integration desired by the provinces, and exists on their sufferance. Attacking the proposal to turn Loto-Canada over to the provinces, Opposition Leader Trudeau said this was a start of a trend the end result of which would be a Canada of ten provinces with Ottawa as merely head waiter to take their orders.

Which direction will we move in? The majority of recent constitutional proposals embrace at least parts of the collaborative model. In part this is because of a belief that the politics of decentralization and provincialization has gone too far to be reversed. Since the tools of policy-making are inevitably to be shared, and since there is no realistic possibility of a decisive shift in either direction, then improving the collaborative machinery is the only alternative. It grows directly out of the forces I discussed earlier, and represents an extension of federal-provincial decision-making patterns already well-established.

Moreover, because centralization is unacceptable to Quebec, and yet special status is unthinkable elsewhere, some argue that we must make it possible for all provinces to acquire powers sufficient to satisfy Quebec. The alternative to this, of course, is to argue for special status, realizing that the price of a stronger centre for the rest of the country is a Quebec in which the centre exercises less authority.

The process of the constitutional review also tends to push us in the collaborative direction, since it is itself an archetypical example of the model. It is provinces which sit at the table and it is most unlikely many will approve proposals to weaken their power and status.

There is a third model - the more classical federal scheme,

in which there is a division of labour between levels of government, each clearly and independently responsible for a given set of activities. This watertight compartments model has many attractions. It would reduce the need for extensive collaboration, and it would suggest we should concentrate on a redefinition of federal and provincial powers to reduce the number of "grey areas", and cut down on duplication - in short we should aim at "disentanglement", getting each government out of the other's hair and reducing the costs of administrative coordination. Some progress has been made at the administrative level. In the most recent fiscal arrangements, there is considerable disentanglement in health policy leading to much concern about the erosion of a national health-care system. Some studies trying to identify, and perhaps eliminate, overlapping and duplication are underway. There is much to be done in this direction, and many recent constitutional proposals do try to parcel out functions neatly between the two levels.

As one who has tried it, I can say it is a frustrating task. In every federal system in the world the trend is to greater and greater interpenetration of federal and state activities. Policy activities simply change too quickly and are so interconnected that no clear division, certainly not a permanent one, is possible. Moreover, it is very hard to agree on criteria by which such a division is made. There is no consensus on what is a local and what a national problem. The distinction between economic, cultural and social domains is equally unsatisfactory as a basis for constitutional allocation. And we have also seen how each level of government, responding to its own development goals and electoral needs feels compelled to move into most areas of policy and to wield a wide range of tools. In the end, most efforts at respecifying federal and provincial powers have ended up increasing, rather than decreasing, the number of concurrent areas, thus setting the stage for greater collaborative federal-provincial decision-making.

Thus the government by conference, in almost any constitutional future we can imagine, will remain with us. That means we must seek to improve the machinery for collaboration even while realising that ultimately the mechanism is less important than the goals and will of those who run it.

The problem is to know how to increase the incentives to agree and to cooperate, given the competing interests and ambitions we have described. And how to reconcile that with the equal need to make hard trade-offs and act decisively. Even more difficult to reconcile is the need to suggest reforms which on one hand help make the process more democratic - more open, responsive, accountable and so on - and on the other hand make it more effective as a device for policy-making. That implies the need to negotiate and compromise away from the glare of publicity.

Despite all the problems, I think we must strengthen the machinery of federal-provincial collaboration. It is inevitable that broad national policies will cut across whatever jurisdictional lines we draw. A return to the consensus on federal dominance now seems quite impossible in the foreseeable future. Nor is the purely confederal system realistic. If neither model can prevail, we must provide a place for continuous dialogue between them.

Many proposals have been put forward for improving the machinery. They range from the very modest - such as a constitutional requirement for annual First Ministers' Conferences - to the very elaborate, the most important of which are the various proposals for a House of the Provinces - building direct provincial government representation into the central government itself. I have argued in favour of such a House of the Provinces, and continue to believe that it provides a useful model. Yet it has come under considerable criticism. Some argue that to submit federal legislation to a veto by provincial governments is a recipe for frustration, delay, and even more blurred accountability of governments. Others fear the loss of whatever useful functions the existing Senate now serves, and argue that to build provincial governments directly into a House of the federal Parliament erodes the necessary distinctions between the two levels of government. These are important criticisms and certainly no one should presume that any new institution will be a magic panacea.

The debate about a House of the Provinces was in part sidetracked by its manner of presentation. To suggest it as a replacement for the Senate and as part of the federal Parliament meant that it was assessed largely through the prism of existing attitudes towards the

Senate. Its central role as a federal-provincial body was blurred. Thus, I think it more helpful to conceive of three sets of institutions of Canadian government. There are the institutions of the provincial governments - their legislatures and cabinets the institutions of the central government - the federal Parliament and cabinet and the institutions of federalism itself. These include the mechanisms for managing the federal-provincial relationship itself - for defining the powers of each level, for resolving legal disputes between them, and for conducting their joint activities in policy-making. Thus, the institutions of federalism consist of the constitution, the Supreme Court, and the House of the Provinces. The House of the Provinces, therefore should be seen not so much as part of the central Parliament, but as the policy forum in which the two orders of government come together. This perspective underlines the primary role of the new body. It grows out of the massive interdependence of governments and the resulting imperative for policy coordination between them.

The really important thing is to provide a forum for continual interaction between Ottawa and the provinces, and to recognize the vital significance of intergovernmental relations, by giving the process explicit recognition in the constitution and by building it into our normal political process. It must not remain hived off and separate.

We must create a setting in which each government's actions in the federal-provincial arena are subject to debate, assessment and criticism. Governments must be placed under strong incentives to consult with others before undertaking actions which affect them. There must be a setting for public deliberation between governments of the broad economic and social issues which cut across jurisdictions. In short, we must institutionalize the process further.

The House of the Provinces, or perhaps we might call it the Council of the Federation, is thus a permanent intergovernmental forum. It would be the focus for federal-provincial debate and the umbrella under which the various existing ministerial committees and secretariats would operate. Responsibility for organizing and

managing the House or Council would be undertaken by a permanent committee of federal and provincial ministers responsible for intergovernmental relations. It would be served by a small secretariat such as the existing Canadian Intergovernmental Conference Secretariat, responsible for organising meetings. Together the ministerial committee and secretariat would be responsible for preparing agendas and for providing a follow-up to agreements. The permanent membership mainly to provide continuity would be very small. Most discussion would involve governmental representatives who would shift as the topic of debate varied. For example, regular discussions of economic policy and budgets would be conducted by finance ministers, while ministers of transportation, education, social policy would participate in debate and discussion in their own fields. All federal-provincial agreements would be tabled in the Council and it would be the setting in which at least annual First Ministers' meetings would take place.

The Council would have to be structured to take account of the dual aspects of federal-provincial meetings - as forums for deliberation, discussion and public education - which requires that they be open. And as arenas for hard-bargaining - more akin to cabinet discussion - which requires privacy. Unfortunately a Council forced to be always public would simply drive the real business of federal-provincial relations elsewhere.

The important goal is strengthening the incentives to ✓ consult, inform and mutually educate. I would resist giving the Council wide legislative powers or a formal veto over general federal policies. I do not think that is consistent with the need for accountability in a Parliamentary system. Each government must remain responsible for its own actions to its own legislature.

However, in some areas, the Council would have formal responsibilities related to the maintenance of the federal system itself. It would ratify Supreme Court appointments. It would be the mechanism which would mandate use of the broad federal discretionary powers now in the constitution - the spending power, the declaratory power and the declaration of emergencies under the

Peace, Order and Good Government clause. All are so potentially subversive of provincial power that provincial consent is required. The requirement of provincial approval would discipline Ottawa to explore fully its own arsenal of policy tools and consult fully with the provinces. For these, but not for most other debates, a formal set of voting rules would be necessary.

Such a Council would formalize and legitimate the executive process of intergovernmental relations and make it open and comprehensible. It will remain however an executive process and further efforts must be made to make the actions of governments in intergovernmental relations more accountable to legislatures. The growth of ministries of intergovernmental affairs demonstrates that the federal-provincial dimension is a vital aspect of almost all policy. It is essential that, as in other areas, these activities be subject to legislative scrutiny. Hence every legislature should establish a permanent standing committee on intergovernmental relations, to focus debate on the government's actions. One other small point - some proposals for a freedom of information act have exempted federal-provincial, along with international relations, national security and the like from its provisions. That seems to me completely unjustified.

No miracles flow from these very modest proposals. Indeed they recognize, formalize, and build on what already exists - but they do provide a framework where the real issues of national and regional development can be discussed more creatively and openly than ✓ the present ad hoc and mysterious process permits.

But we must, in the longer run, also seek to build other linkages which strengthen the integrative forces in the country. To rely almost entirely on the intergovernmental mechanism to reconcile centre and periphery, French and English, is to place an intolerable burden on a fragile structure. Thus, while strengthening this mechanism, we must at the same time look elsewhere: and in particular to political parties. This means not only making the federal parties

more regionally representative, but also strengthening the ties between federal and provincial party systems, increasing mobility between federal and provincial governments and so on. We need to knit the country together in many ways and define goals and issues in non-regional terms. If we could do that - and recent proposals for reform of the electoral system offer some promise - in the long run federal-provincial negotiations might one day become what their present structure and membership best equip them to be - agencies for administrative cooperation.

In the meantime the greatest challenge to the federal-provincial process remains the constitutional debate. While very difficult problems remain, I think it is now possible to reach agreement on many of the outstanding issues, at least those which have divided Ottawa and the mainly English-speaking provinces. Indeed, while they have taken a constitutional form, many of these issues could, in other circumstances, have been dealt with in other ways. Conflicts among regional and national interests, regional and national development strategies, while often intense are well within the bounds of normal political debate and amenable to compromise.

But the basic challenge of national unity and national integration remains. The process of intergovernmental relations offers some possibility of responding to the interests of Quebec insofar as those interests are similar to those of other provinces. And the conduct of the other governments sends important messages to Quebecers faced with a critical choice. The Parti Québécois has argued persuasively that the existing process frustrates Quebec's freedom of action and forces it to waste its energies in intergovernmental battles. If the process can be effective in encouraging broad national policies, then support for federalism may prevail. But the critical decisions will be made outside the intergovernmental arena. They will be made by developments within Quebec. The critical test of federal-provincial relations - and Canada as a whole - will be how the other governments respond to the results.