

FEDERALISM IN CANADA

A federal system is characterized by the distribution of legislative authority between two orders of government, central and regional. It is generally considered appropriate where centrifugal forces (such ethnicity, difficulties of geography and regional economies) militate against a legislative union, and yet where there are sufficient centripetal forces (such similarity of political institutions) to foster a viable political union without legislative unity.

CANADIAN FEDERATION

Nova Scotia, New Brunswick and the Union of Canada (Ontario and Quebec), came together to form the Canadian federation in 1867 under the British North America Act. As a reaction against the American Civil War and in order to foster economic expansion, it was decided to create a centralized federal system. The central government was granted the most important legislative powers of the day principally those necessary to develop and regulate the economy. In addition to shared jurisdiction over direct taxes, the central government also controlled indirect taxes, which were by far the most lucrative at the time. The Lieutenant-Governors are named by the Governor General in Council and can "reserve" provincial Bills for the approval of the latter, and the Governor General in Council can disallow duly sanctioned provincial legislation. These powers are rarely used. Provinces are represented proportionately in the House of Commons, though a province may not have fewer MPs than Senators. The Senate provides for equal representation of four "regions" (24 each for the West, Ontario, Quebec and the Maritimes), and 6 for Newfoundland. Nominations to the Senate are made by the Governor General in Council; this, combined with the responsibility of the executive before the House of Commons, has tended to reinforce the role of the Senate as a House of sober second thought rather than as a "States' rights" House. Although the Senate does not generally represent provincial interests, the Cabinet, since 1867, has tended to have a fair representation of regional and linguistic interests. First Minister Conferences also provide a framework for the expression of provincial interests. The Supreme Court of Canada was created by an Act of Parliament under provisions of the BNA Act and judges are named by the Governor in Council.

THE CYCLES OF FEDERAL AND PROVINCIAL POWER

Although the provinces were, at first, rather weak, the Judicial Committee of

the Privy Council in London, which was the court of last resort until 1949, tended to give a very broad interpretation of the provincial control of property and civil rights and a rather narrow interpretation of federal powers for dealing with emergencies, the national interest, and trade and commerce. This established a form of equilibrium between the two orders of government by the 1920s. World War II led to a new concentration of power in Ottawa, but the subsequent demands for social services (particularly education, medical care and welfare) have led to a high degree of provincial activity. To the degree to which a comparison of federal and provincial-municipal expenditures might be used as a crude measure of centralisation or decentralisation, it might be said that the federal government dominated until the end of the first World War, at which time the municipalities and provinces became dominant (although the municipalities spent more than the provinces themselves up to 1934). It was only in 1940 that the federal government became dominant once again—this time overwhelmingly so. Federal dominance declined after the war and, towards 1960, provincial-municipal expenditure once again began to ease past federal expenditure.

RESPONSIBILITIES AND RESOURCES

The federal government may raise money by any mode or system of taxation, while provinces are limited to direct taxation within the province to raise revenue for provincial purposes. It was recognized even before Confederation that provincial revenues would be inadequate for the various provincial responsibilities, and the BNA Act provided for federal subsidies to the provinces. Transfer payments from Ottawa to the provinces have been a permanent feature of Canadian federalism and have increased enormously in recent years. Intergovernmental transfer payments generally seek to overcome, to a degree, the imbalance in fiscal capacity between "have" and "have-not" provinces and to foster the establishment of certain programmes of national interest where portability and universality are desirable. About one fifth of the federal budget is now allocated to intergovernmental transfer payments, of which about 25 per cent is transferred to the provinces, with the exception of economically wealthier British Columbia, Alberta, and Ontario, in the form of unconditional equalization payments. Support for health and social welfare programmes in the provinces accounts for most of the balance.