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Institute of Intergovernmental Relations

Advisory Council Annual Meeting

November 18, 2010

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AGENDA

Advisory Council Annual Meeting

Institute of Intergovernmental Relations

Robert Sutherland Hall

Queen's University

November 18, 2010

Austen Room, 3rd Floor

Delta Chelsea Inn

Toronto, Ontario

2:00pm

Chair: André Juneau

1. Opening Remarks
2. Current Plans
3. Update on Ongoing Projects
4. The Advisory Council's Work

INSTITUTE OF INTERGOVERNMENTAL RELATIONS

Queen's University

Advisory Council Meeting November 18, 2010

Toronto, Ontario

DIRECTOR'S REPORT

This report summarizes my activities since my appointment on March 1, 2010. It outlines my current thinking about the goals we should pursue and the plans and projects to support those goals.

After noting upcoming events and reporting on our staff situation, the report concludes with thoughts about the Advisory Council.

Let me first pay tribute to my predecessor, Tom Courchene, who has continued to distinguish himself through a continuing series of imaginative contributions to our field, including most recently the 2009 State of the Federation book, *Carbon Pricing and Environmental Federalism*, which he edited with John Allan. The latter served as associate director of the Institute until this spring and was very helpful to me when I started. Both are now fellows of the Institute and always available for support and advice.

CONSULTATIONS

Since my appointment, I have concentrated on talking with people both at Queen's and across the country to find out how the Institute is perceived and to get advice on what our priorities should be. I held several meetings at Queen's within and outside the School of Policy Studies, I have met many potential partners in Ottawa and travelled to Edmonton and Calgary, to Winnipeg, to Montreal and Quebec City, and to Toronto for meetings with officials, academics, business people and journalists. In addition, I have been in touch with several old and new colleagues across the country, including former directors of the IIGR as well as many friends of the Institute. This process has also allowed me to start thinking and talking about better identifying and "networking" a federalism community.

I have had many discussions on how the Institute can support the new Principal's ambition to return the university to a more active public policy role. This has included giving advice to Principal Woolf on relations with Ottawa. Of course, I am counting, in turn, on the Principal's support in meeting the Institute's challenges.

Not surprisingly, I have found that the intergovernmental affairs community cares about the Institute, that the brand is strong and that we are counted on to make an important contribution to the understanding and improvement of federalism as it operates in Canada,

notwithstanding the neglect it currently suffers from. My interlocutors often underlined the past contributions of the Institute both as a generator of research and as a facilitator of dialogue. Comments were also made about the state of research on federalism which seems to favour sectoral studies at the expense of institutional work.

Substantively, I have been repeatedly encouraged to contribute to the upcoming discussions on the renewal of several intergovernmental agreements. They cover equalization, health, social programs and post-secondary education, and the labour market. Obviously, the fiscal aspects of these agreements are critical but there is more than fiscal federalism at stake.

Despite the complexity and the national paralysis on the climate change front, I have also been encouraged to build on the Institute's more recent work on carbon pricing. A number of players are working in this area but many feel that the Institute has a comparative advantage regarding intergovernmental political and fiscal issues.

With Ron Watts, George Anderson of the Forum of Federations, Doug Brown and Alain Dubuc of La Presse, in September I attended the annual meeting of the International Association of Centers for Federal Studies. The theme was the impact of the world financial and economic crisis on federal systems. The conclusion very briefly was that the impact in most of the countries that had been surveyed had been quite limited

From a process point of view, I have also been repeatedly encouraged to work in partnership with other centres, established ones and new ones. This of course would not be new for the IIGR but the importance of doing so may be greater for various reasons. There is one relationship in particular which the IIGR selection committee asked me to pay attention to namely with Quebec. I have taken some first steps in that direction, including an agreement to collaborate with L'idée fédérale. This is a loose network of scholars and others with an interest in federalism founded by André Pratte, the chief editorial writer of La Presse. I have also joined, informally, the University of Ottawa's network of federalism scholars, many of whom are Quebec academics..

GOALS

Stepping back, it is important to think about the goals we should pursue in order to provide some coherence to our work and to facilitate priority-setting. The latter is always a good thing but it is critical at this point because of our financial situation. It is perhaps not quite as bad as one might have feared, but it is not good and really not desirable given the need for knowledge and dialogue in the Canadian federal system.

I see two broad goals. Our main mission should continue to be the improvement of the way federalism works in Canada, through research and dialogue. This is meant to echo Richard Simeon's "Making Federalism Work" in the IIGR's book on *Open Federalism*.

This, in turn, will require a robust, well-funded Institute working with networks and partners that would be the best-informed centre on Canadian intergovernmental relations. It would build on and support a younger generation of scholars, and stay connected internationally.

PLANS AND PROJECTS

We have started planning next year's State of the Federation conference. It would actually be about the state of the federation. There are various way of approaching this. One way would be to look at institutions and governance, financial arrangements, sectoral intergovernmental relations, interprovincial and bilateral relations, the place and role of individual provinces and territories, the presence or absence of a culture of federalism. I think this should be done with partners and I am meeting some of them during this year's conference. We are working on a preview of this idea for the annual meeting of the Canadian Political Science Association in May 2011 at the University of Waterloo.

There has been a great deal of work on the intergovernmental agreements expiring in 2014. More may not be needed. My idea then is to develop a series of "briefing documents" that would explain the issues to a broader community than usual. Senator Segal has proposed for instance that legislatures and Parliament be involved. I have in mind the creation of a sort of editorial board to guide this work. We are contemplating hosting a conference of practitioners and academics to launch this process.

On what some call environmental federalism, I am proceeding cautiously. We have been approached to do some background fiscal federalism work to see whether there are models we could borrow from other sectors that might guide revenue sharing on the assumption that sooner or later there will be a need for knowledge of this kind. I have talked with people involved in an emerging conversation on the possibility of a national energy framework. It is possible but by no assured that the IIGR would be asked to be involved.

In an effort to rebuild the Institute's working relationship with the Government of Canada, we are working with the Canada School of Public Service to deliver for them a course on intergovernmental relations. Their curriculum does not include such a course.

We also need a four or five-year Research Plan. Following a very useful discussion with senior colleagues from various departments and institutes at Queen's, we are developing the following idea. Canada is said to be a very decentralised federation, although some scholars, often from Quebec, debate that proposition. Accepting that view in principle, are we taking full advantage of it? In what ways are we not decentralised? What is the extent of learning across jurisdictions? Would that be a valid test? What would a truly decentralised federation look like? Are we there? Should we? If not, how do we get there? How does the state of decentralization, if one accepts that we have it, help the country deal with major challenges: economic disparities, weak governance, clarity of roles? We need to flesh out the concept of this research plan, make

sure we ask the right questions, and work out how it would flow over the course of, say, four years, and look for partners and funding.

The above initiatives, if they materialize, are major and would take up much time and resources. My hope is that they not preclude considering other short-term opportunities.

The whole work program of the Institute must be properly funded, both for the short-term and over the long run. As this point, there is money to pay three modest salaries, a bit of travel and little else. When our work plan becomes clear, a major activity will obviously be looking for funding.

UPCOMING EVENTS AND ON-GOING PROJECTS

The 2010 State of the Federation conference will be held on November 19 and 20, in collaboration with the Mowat Centre for Policy Innovation on the theme: “Shifting Power, the new Ontario and what it means for Canada”. Tom Courchene and Matthew Mendelsohn started this project and I look forward to future collaboration with the Mowat Centre. I am very supportive of this year’s theme and we hope that the resulting book will be a useful contribution to the fairly limited literature on Ontario in Confederation.

Hopefully there will soon be more events to announce but for the moments, we can only announce, as noted above, the intention to sponsor a panel at the annual CPSA meeting on the state of the federation next May.

Including in the material for the Advisory Council meeting is an update on current projects.

STAFF

As the director, I work part-time. I am in discussions with the Director of the School of Policy Studies to increase the time I devote to the IIGR.

Mary Kennedy continues to hold the fort every morning of the week and then some.

Nadia Verelli, until recently a post-doctoral fellow, is now our full-time research associate. She continues to work on the Supreme Court series, but more important to me, she carries a significant part of the projects discussed here.

Two “new” colleagues have joined us. Professor Christian Leuprecht has returned from his sabbatical and will work closely with the Institute again. Dr. Craig McFadyen has joined the School of Policy Studies as the Ontario Government Amethyst Fellow. He is on leave from the position of Assistant Deputy Minister, Economics and Justice, Intergovernmental Affairs, Ontario Cabinet Office. He and I are working on various projects together.

Ron Watts, one of the Institute's fellows, have been very supportive since my arrival particularly by introducing me to the senior officers of the university. He has continued to be very active internationally with the Forum of Federations and the International Association of Centers for the Study of Federalism. I am sad to report that as of this writing Peter Leslie, also a fellow of the Institute, is very ill.

THE ADVISORY COUNCIL

I am very grateful to the members of the Council who are able to attend the November 18 meeting and to those I have been able to consult in person over the last few weeks. The Council has existed for a long time and many current and former members have told me of their commitment to the IIGR. This has been very gratifying to me specially given the challenges we face. Having said that, I would like to raise a few questions with the Council. Are we making the best use of the Council? Is it too large? Should its members serve for set terms? Currently, with the addition of a representative from Nunavut, all governments are represented. Should we keep it that way? If I were in the shoes of the government people, I would say yes. This would strike me as a useful informal forum. However, if it were agreed that the group as a whole is too large, we would have to reduce the number of non-government members, from about 30 (depending on how one counts). I welcome your views.

A list of current Council members is included in the meeting material. It is perhaps not entirely accurate or up-to-date, another reflection of the need to "revitalize" the Advisory Council.

As the selection committee obviously knew, my experience of intergovernmental relations, with a brief exposure to research at Brookings many years ago, has been that of a practitioner. From being a fiscal-arrangements number cruncher in the seventies, to holding several policy jobs with a heavy intergovernmental content, to serving as a negotiator at junior and senior levels, to running the IGA operations machinery, I have developed certain skills, acquired knowledge and developed a network that I want to take advantage of in this position. Generally it leads me to an interest in governance which I believe is a neglected feature of our intergovernmental system at the moment. That said, I have been intensely involved in policy research over the years, albeit from the policy side. That means that I am also deeply committed to a dynamic program of research on the issues we think will confront us in the future.



André Juneau

ACTIVITY UPDATE

(1) Ronald Watts Festschrift

Due to the number of papers submitted, 33 in total, the editorial committee, consisting of John Allan, Thomas Courchene, Christian Leuprecht and Nadia Verrelli, decided to publish the festschrift in two volumes:

- The Federal Idea – Federalism: Essays in Honour of Ronald Watts, Volume One;
- The Federal Idea – Federations: Essays in Honour of Ronald Watts, Volume Two.

As of November 2009, Nadia Verrelli has been asked to become the lead on the editorial committee.

Volume One

All 14 papers have been formatted.

Volume Two

Sharon Sullivan from the John Deutsch Institute, Queen's University is currently formatting the 19 papers for volume two.

Both volumes are missing the introductory chapter which Nadia Verrelli is in the process of writing.

Finances

One reason for the delay in publishing the two volumes is lack of funds. We are, however, vigorously seeking funding. One avenue we have pursued is through Donald Rickerd from The Draeger Foundation. We have requested funding and are awaiting his response.

Projected Publication Date

June 2011

(2) Canada State of the Federation, 2008: The Federal Spending

Editors: John Allan and Thomas Courchene

Submitted papers are currently being edited and formatted.

Projected Publication Date: February 2011

(3) Working paper series on the Federal Dimensions of the Reform of the Supreme Court of Canada.

As the title suggests, this working paper series focuses on the appointment process of Supreme Court Justices. It is divided into two sections:

Section one: papers addressing the appointment process of Canadian Supreme Court Justices;
Section two: papers describing the appointment process of Supreme and/or Constitutional Courts in other federal states.

Editors of the series: Jennifer Smith, Dalhousie and Nadia Verrelli, IIGR, Queen's

To date we have 14 papers posted on our website. We are awaiting 5 more (promised) papers and will then proceed with the publications of these papers in book form as part of our Democratic Dilemma series.

As an extension of the working paper series, Nadia Verrelli organized a session on whether the process to appoint Supreme Court Justices ought to be reformed at the annual CPSA conference held in June 2009 in Montreal.

(4) The Crown in Canada: Present Realities and Future Options

The IIGR co-sponsored a conference on the Crown in Canada held in Ottawa on June 9-10, 2010.

Nadia Verrelli is in the process of discussing and working with Michael Jackson, University of Saskatchewan, on publishing the conference proceedings.

(5) Canada: The State of the Federation

Currently, André Juneau and Nadia Verrelli are organizing a roundtable at this year's annual CPSA conference to be held in Windsor.

This roundtable proposes to look at the state of the federation addressing two main questions: How is Canada doing? What is the state of the federation? Each panellist will prepare a 15 minute talk addressing the main questions in relation to one of the following topics: The efficiency of federalism; Social Policy; Fiscal arrangements (federal-provincial relations); Institutions.

Doug Brown, StFX, Keith Banting, Queen's, Craig McFadyen, Queen's and Nadia Verrelli, Queen's have agreed to participate with André Juneau, IIGR, Queen's as Chair.

RECENT PUBLICATIONS OF THE INSTITUTE
January 2009 - November 2010

BOOKS 2009 – 2010

Canada: The State of the Federation 2009- Carbon Pricing and Environmental Federalism
edited by Thomas J. Courchene and John R. Allan

The Role of the Policy Advisor, An Insider's Look, edited by Nadia Verrelli

The Democratic Dilemma: Reforming the Canadian Senate, edited by Jennifer Smith

WORKING PAPERS (Papers are available on the Institute Website, www.iigr.ca under working papers in the gray bar at the top of the page)

2009/2010 Special Series on the Federal Dimensions of Reforming the Supreme Court of Canada

Supreme Court Appointments: By Parliament, Not PM (2009 – 01) by Tom Kent

Reforming the Supreme Court: The One-Court Problem and the Two-Court Solution (2009 – 02) by Peter McCormick

Reforming the SCC: Rethinking Legitimacy & the Appointment Process (2009 – 03) by Nadia Verrelli

Réformer le processus de nomination des juges de la Cour suprême? (2009 – 04) by Andrée Lajoie

Appointment of Thomas A. Cromwell to the Supreme Court of Canada (2009 – 05) by Peter W. Hogg

La légitimité de l'arbitrage constitutionnel en régime fédératif plurinational: Le cas de la Cour suprême du Canada (2009 – 06) Eugénie Brouillet and Yves Tanguay

Should Canada Have a Representative Supreme Court (2009 – 07) by Lorne Sossin

The United Kingdom's New Supreme Court (2009 – 08) by Alan Trench

Choosing the Deciders: The Supreme Court Nomination and Confirmation Process in the United States (2010 – 01) by Aman L. McLeod

The Jurisprudence of "Canada's Fundamental Values" and Appointment to the Supreme Court of Canada (2010 – 02) by F.C. DeCoste

The Federal Constitutional Court of Germany: A Central Player in a Federal State (2010 – 03) by Arthur Benz and Eike-Christian Hornig

A Coherent and Consistent Process of Appointment to a Constitutional Court: The Case of the Supreme Court of Argentina (2010 – 04) Jorge O. Berchoic

Intergovernmental Relations and the Supreme Court of Canada: The Changing Place of the Provinces in Judicial Selection Reform (2010 – 05) by Erin Crandal

Constitutional Court Appointment: The South African Process (2010 – 06) Yonatan T. Fessha

The Legitimacy of Constitutional Arbitration in a Multinational Federative System: The Case of the Supreme Court of Canada (2010 – 07) by Eugénie Brouillet and Yves Tanguay

Public Health Working Paper Series 2008/2009 (Harvey Lazar and Kumanan Wilson)

Federalism and the Public's Health

Creative Federalism and Public Health by Kumanan Wilson and Harvey Lazar (Public Health 2008-01)

Concurrency in Public Health Governance: The Case of the National Immunization Strategy by Jennifer E. Keelan (Public Health 2008-02)

Understanding the Role of Intergovernmental Relations On Public Health Policy: A Case Study of Emergency Preparedness and Response by Christopher MacLennan (Public Health 2008-03)

Canada-Wide Standards for Particulate Matter and Ground-level Ozone: A Shared Approach to Managing Air Quality in Canada by Karen Thomas (Public Health 2008-04)

Intergovernmental Relations in Food Biotechnology Governance: Complementary Disentanglement in Regulation with Collaboration in Food Safety and Inspection by Melissa Gabler (Public Health 2008-05)

Jurisdictional Ambiguity or Lack of Political Will? Intergovernmental Relations, Public Health, and Tuberculosis Control Among Aboriginals In Manitoba and Saskatchewan by Michael Orsini (Public Health 2009-01)

Still Waiting for a Comprehensive National Epidemic Surveillance System: A Case Study of How Collaborative Federalism Has Become a Risk to Public Health by Christopher W. McDougall (Public Health 2009-02)

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2010-2011**

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