

NOTES FOR REMARKS: The Hon. Roy Romanow, QC
Premier
to the “Challenges of Federal Governance” on the
“Current Issues in Canadian Federalism”
OTTAWA Friday, December 15th, 2000

INTRODUCTION

I would like to begin by acknowledging the very good work that has been done through the Russia-Canada Collaborative Federalism Project.

I understand that our Russian friends are greatly interested in the lessons we have learned through our Canadian experience — especially in relation to Canadian fiscal federalism and the structures and practices of Canadian federalism.

The historian Alexander Brady said, ‘Federalism is the most distinctive achievement of Canadian democracy.’ As Canadians, we are proud of that. And as Canadians we are proud, flattered and honoured that our Russian neighbours see something in our experience that might help them develop their own federalism. Here in Canada, we have 133 years of experience as a federal nation ... and our experience has taught us that federalism is more a process than a goal.

My friend Ralph Klein, the Premier of our neighbouring province of Alberta, put it nicely when he said, ‘Canada is perhaps the only nation in the world held together by curiosity ... we all have (the) desire to see how this ongoing exercise in nation-building turns out.’ Thus far it has turned out well; but that doesn’t mean the process has ended. In fact, the Canadian experience demonstrates that the act of federating is never truly complete.

We Canadians are constantly managing the process of a “flexible federalism,” with the aim of accommodating change when change is necessary, within the context of our Canadian values.

In sum, we are a work in progress — we are a rich and vibrant tapestry of cultures and ideas, which we began weaving in 1867 and which we are weaving still.

With your consent, I would like to elaborate on our Canadian experience with reference to four themes:

- ◆ First, the values which I believe bind Canadians together in the ongoing process of federalism;
- ◆ Second, the principles that have shaped the Canadian federal experience;
- ◆ Third, how these values and principles have been reflected and expressed in the Canadian federation;
- ◆ And finally, a few thoughts about recent developments in Canadian federalism.

Then ... I’ll stop!

VALUES

So let me begin by discussing what I see as the underlying values of Canadian federalism.

The late Prime Minister Pierre Trudeau, a great champion of federalism, described this nation as an act of belief, in ourselves and in one another. He said, ‘Times, circumstances and PURE WILL cemented us together in a unique national enterprise.’ In other words, we determined back in 1867 to share a common future, and since that time we have worked to build that future together on the foundations of core Canadian values — enduring values that transcend our occasional differences.

What are those values?

Well, the Canadian Policy Research Network issued a report called “Exploring Canadian Values,” which combined the longitudinal analysis of public opinion in Canada with the results of 25 discussion groups.

The report confirmed what most of us knew in our hearts: That there are deeply-rooted Canadian values, and they include compassion, sharing, equality of opportunity, equity, fairness and collective responsibility. I have referred to these many times in the past as our “core Canadian values” — the guiding stars to which we refer when we are setting our course to the future.

On the whole, our values have allowed us to successfully balance the many competing interests in our nation, which has been a central preoccupation. We have struggled to find the appropriate balance between individual and community. Between regional interests and national interests. Between diversity and solidarity. In fact, our strength has derived from our ability to accommodate the diversity that has been the legacy of British and French settlers, indigenous peoples, and immigrants from every corner of the world.

That ability to draw strength from diversity has made Canada a model for the world. And we believe our rich tapestry of cultures, backgrounds, ethnicities, and languages has been a blessing. We have created a “Canadian identity” through the usual mechanisms — a common if difficult history, strong economic ties, common institutions, our Constitution.

But while all these things serve to join us together in an identity as Canadians, I think we define ourselves most of all by our common, ‘core’ values: compassion, sharing, equality of opportunity, equity, fairness and collective responsibility.

And I believe what Prime Minister Trudeau said in concluding that quote from a moment ago, when he said, ‘**This enterprise (called Canada), by flying in the face of all expectations, of all experiences, of all conventional wisdom, provides the world with a lesson in fraternity.**’

PRINCIPLES

In addition to our shared values, I believe there are two fundamental principles of federalism that underpin the Canadian experience.

Our first principle is simply this: **Government is meant to serve people, and to advance the interests of people.** For that reason, the various roles and responsibilities of various levels of government within the federal framework should be guided by what governments are attempting to achieve. I call this principle “goal-oriented federalism”; others call it ‘functional federalism.’ By any name, **its central thesis is that our duty is to the people we serve.**

As a result, we believe that classical federalism, where governments operate independently within their own rigidly assigned and jealously guarded areas of jurisdiction, has its limitations. We must always be respectful of jurisdiction, but our Canadian experience has taught us to understand and accept that we can advance our values most effectively, in many instances, by collaborating on jurisdictional matters, by a process I call ‘constructive entanglement.’

There are some services the federal government is in the best position to deliver to Canadians, other services provincial governments can do better. And still more where services can best be organized, funded and delivered by provinces and the federal government working together.

Surely it makes sense to organize matters so that the services are delivered with the greatest efficiency to the people who use them, and surely that should be the organizing principle.

These two principles — goal-orientation and a de-emphasis of jurisdictional boundaries — express a larger theme about how we think about federalism. For too long our national discourse has been preoccupied with the constitutional division of powers. For too long, we have proceeded as though shifting powers between orders of government was a goal, when in fact the goal is really good public policy, and the division of labour, as I have said, is a means to that end.

Fortunately, we have recently shifted our emphasis away from jurisdictional squabbling to focus more on our goals, which has the potential to both strengthen our common bonds and accommodate our diversity. It is my hope that by focusing on goals — eliminating child poverty, strengthening health and education — we can make federalism work better for all Canadians, especially vulnerable Canadians.

It is also my hope that by reforming the functioning of our federation through these goal-oriented administrative reforms, we can enhance our collective ability to deliver good government.

This is important for two reasons:

- ◆ First, it reinforces that government can be a positive force in the lives of Canadians;
- ◆ And second, it responds to those that would have Canadians believe that federalism is inherently dysfunctional, inefficient and inflexible, because of its division of authorities and overlapping jurisdictions.

By focusing on goals, we can make federalism work for citizens ... and that is what government is — or should be — about!

ACCOMPLISHMENTS AND CHALLENGES

Let me now turn to a bit of history. There's an old saying that when you're thinking about where you're going, it is useful to reflect on where you've been.

Throughout our history, Canadians have consistently resisted the highly individualistic American ethos with one that balances the needs and aspirations of the individual with the needs and aspirations of the community. That balance was essential for the very survival of our earliest people. Our aboriginal populations and the early settlers knew the value of co-operation.

A former official of Canada's international aid community observed, 'At 30 below, there are no self-made men, or women or children. If people have the ability to co-operate, they will survive.'

Our Russian friends know about the challenges of climate and vastness: With a small population spread thinly across great expanses of forbidding land, you have to rely not only on yourself but on your neighbour, and your neighbour have to rely on you.

In the early part of the 20th Century, prosperity, changes in technology, growing personal wealth, and the rise of big business shifted the balance between the individual and community towards the individual – with devastating consequences during the Great Depression.

Canadians responded to those years of personal devastation and hardship by returning to their core values of co-operation and community. Acting collectively – through governments – during and after the Second World War, we 'reset the balance' by building up a social safety net as protection against the major and often unavoidable risks of life.

First we had income assistance in the form of old age pensions, unemployment and disability insurance, all initiated by the federal government. Then we had hospitalization, pioneered by Saskatchewan and then adopted nationally. The introduction of these policies sparked intensive debates, and in that process, Canadians began to define what we call our "social union."

That led us to move beyond the provision of basic security for each other as a community. In the 1960s and 1970s, we implemented a comprehensive Medicare system. We extended and improved our system of free public and secondary education, and made our system of post-secondary education more affordable and therefore more accessible. We replaced a patchwork of income support programs that were based on personal characteristics to create an income support system based on need.

The result was, and is, a network of programs, policies and institutions that benefit all Canadians — and play an important role in defining who we are as a people and a nation.

Together, these developments delivered greater equality of opportunity, and greater security, in a way that was respectful of our diversity.

Now some would have us believe that the last twenty years have fundamentally undermined this post-War social contract. They tell us we are no longer committed to providing each other with some security from the vagaries of life and that we no longer believe in the value of sharing.

My own experience, especially my nine years as Premier of Saskatchewan, tells me otherwise. My experience tells me that our Canadian values of community, sharing, and equality of opportunity, remain deeply held and largely unchanged.

Yes, we have learned to appreciate the freedom to determine our individual futures and to enjoy the rewards of individual effort. But we have also learned to appreciate and to support the institutions, policies and structures that provide equality of opportunity; equality of access; and, to some extent, equality of circumstances.

Because those institutions, policies and structures have enabled Canadians to build a nation second to none in combining political freedom, social equality, economic prosperity and cultural diversity ... with one of the world's strongest economies. We were the first federation to constitutionally guarantee fiscal equalization to our less prosperous regions, and the first to constitutionally recognize the rights of indigenous peoples.

We can be proud of these accomplishments — but we must also understand the great responsibility they place on us to continue the process of federalism in the face of three significant challenges:

- ◆ First, demands for greater government accountability and financial responsibility;
- ◆ Second, increasing globalization and the decreasing importance of national economies;
- ◆ And third, the continual challenge to national unity arising from the threat of Quebec secession from the federation.

Let me elaborate on each of these.

First, financial accountability.

While Canadians continue to have a compassionate and sharing outlook, the hardships they endured while governments balanced budgets have led to demands that governments be more transparent, accountable, and effective.

It only makes sense, therefore, that in modernizing how we govern we should build in greater transparency by explicitly stating our goals and objectives, and by systematically evaluating programs against those outcomes.

Doing this will better enable governments to allocate resources and, most importantly, to regularly improve program design and service delivery.

It will also provide objective and relevant information to our citizens in their various roles as taxpayers, clients, and social program deliverers.

Citizens can independently assess whether our collective objectives are being met and hold governments accountable.

Next, with regard to globalization ... Canada's old national policy, of economic ties running east and west, is in decline – something Tom Courchene has been writing about for years. Instead, our trade and investment flows increasingly north-south and around the globe.

As well, increasing globalization make our social programs an increasingly important part of our national identity and national cohesion, which is critical when the world around you is changing.

Finally, there are the strains on our federation caused by Quebec's continuing threats to secede.

I should begin this part of my discussion by noting that I consider the process that led to the patriation of the Constitution and the Charter of Rights and Freedoms to be a classic example of Canadian accommodation and compromise.

In 1982 we patriated our Constitution from the United Kingdom, a fundamental – and perhaps the final – building block of Canadian nationhood.

This was not an easy process. It required governments to accept a constitutional Charter of Rights and Freedoms – a new pillar of our federation – that would constitutionalize many individual rights and introduce significant limits to the sovereignty of legislatures, especially in legislatures' ability to advance collective interests over individual interests. At the same time, the national government agreed to a provision whereby legislatures could over-ride certain constitutional rights in certain defined circumstances.

The result is a uniquely Canadian balance between the individual and the community — and one that is very popular with Canadians, including Quebecers. It is now almost inconceivable for Canadians to think about our federation without the Charter. It is unquestionably one of the greatest achievements of the late Prime Minister Trudeau.

And while, particularly regarding Quebec, there remains much unfinished business, I am proud of what we achieved in the patriation exercise.

Yet, despite this accomplishment, the people of Quebec have repeatedly elected provincial governments dedicated to removing Quebec from the federation. Subsequent events have created a lot of strains, and hardly brought us together as Canadians: There were two referenda on secession; two failed attempts at constitutional reform; and years of federal-provincial squabbling over jurisdiction.

This stress was most recently and dramatically experienced in the 1995 referendum on Quebec sovereignty. The very close result in that referendum was a wake-up call. It told us that we need to do a better job of making federalism work to achieve things that Quebecers and all Canadians care about, things that reflect our shared values. This experience also suggested, at least to me and some others, that we needed a better understanding of the basic legal rules that would guide the process of a province seceding from Canada.

In September of 1996, the Government of Canada decided to refer three questions to the Supreme Court of Canada.

In essence, these questions asked if a province of Canada is entitled, under the Constitution or under international law, to secede unilaterally from Canada. The Government of Saskatchewan decided to intervene in this *Reference* for three reasons:

- ◆ First, we recognized that great harm can flow from not knowing, and following, constitutional rules in times of great political stress.
- ◆ Second, the questions referred to the Court raised issues that directly affect the people of Saskatchewan, and indeed, all Canadians. In particular, we wanted to express our view about what process could lead to the separation of a province from Canada, and the role which federalism grants to provinces in this process.
- ◆ And third, we wanted to articulate what constituted a nation such as ours. On this point we said the following: **'A nation is built when the communities that comprise it make commitments to it, ... when the communities that comprise it make compromises, when they offer each other guarantees, when they make transfers and perhaps most pointedly, when they receive from others the benefits of national solidarity. The threads of a thousand acts of accommodation are the fabric of a nation.'**

I am pleased to say that the Supreme Court endorsed the role of provinces in any process of secession and specifically adopted Saskatchewan's vision of our nation. Furthermore, the Supreme Court has provided us a framework within which to advance that quintessential Canadian balance between freedom and equality on the one hand, and the historic and cultural interests of our constitutionally recognized communities on the other.

So having sought and received the guidance of the Supreme Court, it was a reasonable next step for the federal government, as they did in 1999, to legislate the framework provided by the Court. It is an approach I endorse.

Most importantly, this stress on Canadian federalism makes it essential that we act in accordance with our shared values. For me, this means that we need, among other things, to strengthen our social union.

You might ask what I mean when I use that phrase. The 'social union' is not merely the sum of the social programs in the country; it is something deeper, something which is formed from the values I mentioned earlier, something that explains why we have the social policies we do.

A 1996 paper published by the Canadian Policy Research Network defined the social union as "The web of rights and obligations between Canadian citizens and governments that give affect and meaning to our shared sense of social purpose and common citizenship.

'The social union embodies our sense of collective responsibility (among citizens), our federalism pact (between and across regions), and our governance contract (between citizens and government).'

According to this definition, what makes our social union different from that of many other countries, is federalism.

Federalism certainly makes our social union more complex and more difficult to manage than would be the case in a unitary state, or even in federations in which authority for social policy is not divided but vested in a single level of government. But our federalism also makes our social union richer and more responsive to the citizen.

It allows for programs and services to be provided to Canadians by the government most suited to do the job.

Again, the Supreme Court of Canada put it well in 1998 when it said: 'A federal system of government enables different provinces to pursue policies responsive to the particular concerns and interests of people in that province.

'At the same time, Canada as a whole is also a democratic community in which citizens construct and achieve goals on a national scale through a federal government acting within the limits of its jurisdiction.

'The function of federalism is to enable citizens to participate concurrently in different collectives and to pursue goals at both a federal and provincial level.'

This means that we spend a lot of time negotiating and co-operating with other governments, and sometimes competing with them. But it also fosters a vibrant "marketplace of ideas" about social policy that is one of this country's great advantages: Provinces have the jurisdiction to design social policies and to experiment with different ways to address social issues.

That's how Saskatchewan invented Medicare in 1962.

This process allows the citizens to see different ideas and action to compare their effectiveness. Then, the federal spending power gives the federal government the opportunity to encourage all provinces to adopt the very best ideas so that all citizens can benefit from equal access to new social programs.

Indeed, we can see from the vantage point of 2000 that a relatively clear division of powers, combined with the federal spending power, was not only compatible with good social policy, but in a vast country such as Canada, actually facilitated it.

When our society achieves a broad consensus on the value of adding new material to the social fabric of the nation, federalism gives government the ability to see that it is done.

While it takes time to forge this consensus – national Medicare took two decades – it is almost impossible for any single government, no matter how ideologically motivated, to dismantle the social union once national consensus has been forged.

This is, in part, because the authority and responsibility for the social union is shared among thirteen governments, some of whom will undoubtedly be committed to preserving the social union.

Thus, federalism allows us to “level up” the quality of our social safety net, but makes leveling down more difficult. I, for one, consider this a very attractive feature.

RECENT DEVELOPMENTS

Finally, let me comment briefly on several recent developments in Canadian federalism.

These developments give me reason to be optimistic that we are making progress in implementing the goal-oriented administrative reforms I spoke of earlier — reforms that strengthen our social union and reflect our shared values.

These recent developments include the introduction and implementation of the National Child Benefit; the Social Union Framework Agreement; and the two Accords reached by First Ministers on September 11th of this year on Health and Early Childhood Development.

I'd like to spend a little time speaking to each of these, because I think they represent what can be accomplished when governments set aside jurisdictional squabbling and work collaboratively towards common goals.

First, the National Child Benefit, which is an accomplishment that is particularly near and dear to my heart.

Poverty limits human freedoms and deprives individuals of equality of opportunity. The incidence of child poverty in Canada became a priority for First Ministers in 1996, and we set a goal to reduce it by putting in place a national income support program for poor kids.

I recall that the Canadian Council of Bishops, back in 1996, did not mince words on this subject. The Catholic Bishops said: ‘To think that almost one Canadian child in five lives in poverty in one of the richest societies in world history is nothing less than a damning indictment of the present socio-economic order.’

‘A damning indictment.’ They were right.

We now have the National Child Benefit in place. It's not perfect — child poverty still exists — but it's an important start, and I have no doubt that Canadian children are better off.

In Saskatchewan the National Child Benefit, in combination with other provincial initiatives, has been central to our ability to reduce child poverty to the lowest rate in the nation.

Next, the Social Union Framework Agreement.

You will recall that I earlier described federalism as a process, a work in progress. Like any work, it must be guided by a framework — a set of principles and collaborative practices that can articulate how governments work together. The need for such a framework became abundantly clear through the late 1980s and 1990s, when federal-provincial cooperation was at a low point, replaced by what I and others have called ‘competitive federalism’.

This was particularly problematic in the early to mid-1990s, when the federal government dealt with huge fiscal deficits by unilaterally reducing transfer payments to the provinces – transfers intended to support the delivery of our social programs.

In 1997, First Ministers established a goal for themselves – to successfully conclude a framework agreement that would guide how governments work together in the area of social policy and programs and eliminate, or at least reduce, the intergovernmental conflicts of the recent past.

In February 1999 all First Ministers, with the exception of the Premier of Quebec, signed such an agreement – the Social Union Framework Agreement or SUFA.

SUFA takes Canadian federalism in some very positive directions:

- ◆ Away from government to government accountability towards government to citizen accountability,

- ◆ Away from unilateralism towards collaboration,
- ◆ Away from uncertainty in federal-provincial transfers towards stability;
- ◆ And away from barriers towards greater mobility.

We established a goal and after nearly two years of some very tough negotiations we achieved it.

If we can make SUFA work, we can demonstrate that intergovernmental agreements can be effective frameworks for how we manage the process of federalism.

We can demonstrate that we can accommodate diversity and equality without re-embarking on the constitutional odyssey that has led to divisiveness and exhaustion in the past.

And if we can demonstrate this to ourselves, there might be a lesson in this for other federations that are looking to put in place frameworks to guide the process of federalism ... outside of the formal constitutional process.

Finally, most recently we have concluded accords in Health and Early Childhood Development.

For the first time in our history, we have agreed on national priorities for early childhood development.

When First Ministers met on December 12, 1997, we expressed our commitment to work together to ensure the fundamentals of the health system stay in place. We agreed on the importance of achieving broad agreement around future priorities, so that available funding is invested most effectively by both orders of government. And we reaffirmed our commitment to co-operative approaches in ensuring child well being.

When we met again on September 11, 2000, First Ministers reached two substantive agreements in the areas of health and early childhood development.

The Health Accord articulates the First Ministers' key goals for the health system in Canada, and the principles that governments will use to achieve these goals.

It identifies key areas in which governments will work together to support system renewal and invest additional funding (e.g. access to primary care; supply of doctors, nurses and other professionals; health information technology; and, health equipment).

And it confirms that governments will work together to improve, over time, the way that each government reports on the programs and services it delivers.

The Early Childhood Development Accord acknowledges the importance of the early years in a child's development and future well being, and identifies objectives in supporting children (from the prenatal period to age six) and their families.

It identifies four key areas in which governments will co-operate: promotion of healthy pregnancy, birth and infancy; improvements to parenting and family supports; strengthening children's development, learning, and care; and strengthening community supports.

And it commits governments to develop a framework for sharing information and research, and publicly reporting progress.

Each of these recent achievements build on one another; and together represent the kind of cooperative and goal-oriented federalism that I believe can make federalism work better for all Canadians.

CONCLUSION

A few years ago, I heard a story about a Frenchman, a Canadian, and an American being chased through the jungle by a group of head-hunters.

After they were caught, tied up, and ready to be boiled for the evening meal, the chief of the head hunters gave each of them a final wish.

The Frenchman, going first, wished for one last gourmet meal, and a fine bottle of red wine to go with it.

The Canadian, going second, wished to give one final speech on federalism.

The American, going last, pleaded to be boiled before he had to listen to a Canadian “give another damn speech on federalism”.

All of which is to say, that in case you hadn’t noticed, a lot of Canadians like to talk about federalism. I am certainly one of those.

And when I talk about federalism, I always find myself coming back to the need for balance and the fact that Canadians have made thousands of acts of compromise and accommodation along the way to make that balance possible.

So I look forward to the next two days – to learning more about Russian federalism, to hearing your observations and insights into the Canadian federal experience, and to the open and free exchange of ideas that will improve federalism and government in both our nations.

Thank you.