

Report on Constructing Tomorrow's Federalism Conference

Regina, Saskatchewan, Canada, March 24-25, 2002

by Carl Stieren

The Conference

The Forum was a co-sponsor of the conference "Constructing Tomorrow's Federalism: New Routes to Effective Governance" in Regina, Saskatchewan March 24-25, 2004, organized by the Saskatchewan Institute for Public Policy. The conference addressed recent pressing concerns over the practice of federalism in Canada, bringing together 146 members of the scholarly and practitioner community in Canada. The conference topics were organized to answer three questions:

1. Is the legitimacy of the federation under particular threat today or are the tensions we see simply the inevitable tensions in the management of a federal state?
2. What are the underlying sources of the tensions in our federal arrangements that give rise to the apparent failure of governments to conduct Canadian intergovernmental relations in a spirit of mutual respect?
3. What changes can and should be made to the norms and mechanisms by which we mediate conflicts within the federation to make our governance arrangements more legitimate to a greater proportion of Canadian citizens?

The Forum's role

Sharing international experience: The Forum obtained two international federal experts for the conference: Dr. Kurt Nuspliger, the Chancellor of the Canton of Bern in Switzerland, and Julian Wuertenberger, the Ministerialrat of the Land of Baden-Wuerttemberg in Germany. Both have had experience as high-level civil servants of constituent units of their respective federations and as politicians from differing political backgrounds (Julian Wuertenberger from the Christian Democratic Party and Kurt Nuspliger from the Socialist Party). Conference participants asked Prof. Kurt Nuspliger about languages rights and the practice of holding referendums and initiatives in Switzerland. Participants asked Dr. Wuertenberger about Germany's federal system and how the reform process was going to un-block the federal deadlock in Germany's second chamber, the Bundesrat.

Highlights and Focus of Discussions

The experts brought by the Forum gave their presentations in a session on "Comparative Federalism – Lessons for Canada from the World". Julian Wuertenberger of Germany explained that there are four meetings a year between the Chancellor of Germany and the Premiers of the *Länder*. Unfortunately, German federalism, which looks great on paper, has broken down or rather bogged down. Because the second chamber, the *Bundesrat*, can delay or in some cases veto bills, it can take forever for some bills to become law. A special commission, the *Bundesstaatskommission*, has been set up to reform German federalism to

solve this problem. When the *Kommission* reports at the end of the summer or in any case before Christmas, the most likely compromise is that the *Länder* will give up some powers in the *Bundesrat* in exchange for a transfer of some powers to the *Länder* from the federal government. Kurt Nuspliger explained that in Switzerland, referendums are automatic on constitutional amendments, and possible on any legislation of the required number of signatures are submitted on a petition within a specified time. An initiative is allowed if 100,000 signatures are submitted on a proposal for a law. The Swiss systems allows the election of two senators per canton and a proportionate-to-population number of representatives in the lower house. For the lower house, each canton has a list of representatives presented by each party, so each canton is one multi-member proportional representative district.

In his presentation, Ian Peach of SIPP reported that the politicians and civil servants at the Meech Lake and Charlottetown constitutional negotiations were used to negotiating with each other, but that ordinary Canadian citizens and even ordinary politicians were not. This contrasted so strongly with Switzerland as reported Kurt Nuspliger, who explained that multi-party coalition governments had existed in his country for more than 40 years. And proportional representation was first introduced in Switzerland in 1920.

Nearly 40 other presenters brought by SIPP and other partners spoke on many aspects of current Canadian federalism and how we got where we are today. Rachel Chagnon of l'Université du Québec à Montréal showed how the interprovincial conferences between 1867 and 1914 dealt with tensions in Canada. Paul Kershaw of the University of British Columbia spoke on the permissive federal spending power, a power criticized in strong terms and hour later by Benoit Pelletier, Quebec Minister of Canadian Intergovernmental Relations. Federal Intergovernmental Affairs Minister Pierre Pettigrew spoke in general terms about Canada, but in the question-and-answer period, said there might be some room for compromise in involving Aboriginal peoples in the federal system. Roy Romanow, former Saskatchewan Premier and former chair of the commission that recommended changes to Canada's health system, traced the history of Canadian federalism from executive federalism (11 men in suits deciding Canada's federal questions), confrontational federalism, co-operative federalism, asymmetrical federalism and finally the Council of the Federation. Nellie Cournoyea, former Premier of the Northwest Territories, explained the growth of powers assumed by the territorial government, with one exception - control of subsurface resources in the NWT still remains with Ottawa. David Peterson, former Ontario Premier, said that the rejection of the Meech Lake constitutional agreement marked the end of accommodation in Canada.

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