

Alternate Routes: Intergovernmental Relations in Canada and Australia

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Abstract:

Although they bear many similarities, the practice of federalism is different in Canada and Australia. Each country has evolved in ways that their founders did not predict, and these historical developments have impacted the working of federalism. In Australia, vertical (federal-state) relations are institutionalized through the Council of Australian Government (COAG), while in Canada, the Council of the Federation (COF), a horizontal (provincial-territorial) body, remains the most institutionalized forum for intergovernmental relations. With Canada and Australia as test-cases, this study seeks to answer the following question: what factors shaped the development of COAG and COF? More specifically, did they live up to initial expectations?

Using a historical-institutionalist framework and based on primary interviews with practitioners, the study makes two arguments. First, the same factors that made Canada centralized also tended to support horizontal intergovernmental relations, while the reverse dynamic is in effect in Australia. Second, history is crucial in understanding institutional development. A set of factors ensured that COAG and COF conformed to their respective historical contexts, despite initial proposals which were quite different from the final product. Recent developments in intergovernmental relations in Canada and Australia should serve as a cautionary tale for institutional design. This is particularly instructive when considering the case of the Council for the Australian Federation (CAF), which, although modeled on COF, has fallen to the wayside.

Introduction

On the surface, Canada and Australia are very similar. Both countries are former British colonies spanning enormous, sparsely populated landmasses with indigenous populations; both are federations; and both are parliamentary democracies in the Westminster tradition. Despite the similarities, however, the two countries have developed very different styles of federalism.

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Ironically, while Canada was created as a highly centralized federation and Australia a highly decentralized federation, each country has followed the opposite course.

The prevailing dynamic of intergovernmental relations (IGR) is also different. Australia has an integrated, vertical (federal-state) institution of intergovernmental relations, the Council of Australian Government (COAG). Canada, by contrast, has seen very little in the way of institutionalized federal-provincial relations. The Council of the Federation (COF), the highest level of institutionalized IGR in Canada, is a horizontal (provincial-territorial) body.

Why has Australia developed vertically institutionalized IGR while institutionalization in Canadian IGR has centered around horizontal relations? Historical and institutional developments in each country have tended towards decentralized federalism in Canada and centralized federalism in Australia. Those same developments have created contexts in which a particular form of IGR has come to predominate. Thus, centralization is linked to verticality in Australia and decentralization is linked to horizontality in Canada. Commonwealth-state relations have been the prevailing dynamic in Australian IGR. In Canada, by contrast, the Annual Premiers' Conference and later COF were horizontal institutions. While vertical IGR has played a prominent role in the history of IGR in Canada, it has done so on an ad-hoc basis, and with little regularity. Thus, when economic problems led to the creation of intergovernmental institutions in the 1990s and 2000s, Canada saw the creation of a horizontal body while in Australia the response was a vertical body. This can come to impact even institutions which attempt to counter the prevailing trend, for example the horizontal Council for the Australian Federation (CAF) was launched with much fanfare in 2006 but has recently been paid little attention.

This paper will use a historical institutionalist approach to show how intergovernmental institutions have developed differently in the two countries. This will be demonstrated in three parts. The first will set out the theoretical framework of historical-institutionalism. The second will examine a set of variables which explain the path of federalism in each country. The final section will analyze COAG, COF and CAF from the point of view of practitioners in each country². Interviews with civil servants in each country demonstrate that there are external and

² As part of the author's MA thesis, personal interviews were conducted with provincial IGR officials in Canada as well as state and commonwealth officials in Australia. Semi-structured interviews were conducted between December 2010 and April 2011.

historical constraints which condition what is possible. COAG and COF were therefore shaped by past events.

Historical Institutionalism

William Riker (1964: xii) noted the difficulty of studying federalism: "...each instance of a federalism, ancient or modern is imbedded in a set of unique local institutions, which themselves must be appreciated and understood". The study of federalism therefore requires an understanding of history. However, one must strike a balance between using history to complement one's analysis and doing history for its own sake.

Historical institutionalism is a useful way of incorporating history into social science. A branch of neo-institutionalism, historical institutionalism holds that "history matters" and that understanding the evolution of cultures and institutions must entail a systematic examination of path dependency, sequencing and timing (Thelen 1999). This is crucial for understanding the evolution of intergovernmental relations in Canada and Australia. Although this paper is centered on COAG and COF, a simple analysis of either institution in its present form would do little to answer the broader question. As Pierson (2004: 140) notes: "Snapshots hive off important aspects of the problem of institutional development, yielding misleading conclusions." Each institution is the result of a long process and carries with it the historical baggage of preceding developments. Thus, for instance, one could not realistically explain the Council of the Federation without referring to its origins in the Annual Premiers Conference in the 1960s. However, rather than simply 'bringing history back in', historical institutionalism provides systematic models that help explain how history impacts today's political world. One of these models, path dependence, demonstrates how key events (critical junctures) move a system from a position of relative openness to one of being locked-in to certain paths. This study will apply the concept of critical junctures to the history of IGR in Canada and Australia.

Critical variables

Federalism in both Canada and Australia has evolved along certain lines due to a number of factors. Historical-institutionalism helps us identify how critical junctures shaped the decentralized federalism of Canada and the centralized federalism of Australia; in other words to answer why horizontality in Canada and verticality in Australia. This will be demonstrated by

focusing on using four variables: the presence of Québec in Canada, the structure of fiscal federalism, the nature of judicial interpretation, and the party system. This is not an exhaustive list: these variables were chosen because they represent contrasting points between Canada and Australia while enabling a relatively comprehensive historical comparison. Moreover, collectively these variables present a set of critical junctures which have been established the path of federalism in each country.

Québec

Canada was arguably founded on a critical juncture: the presence of a major national minority. The history of Canadian federalism is the history of a distinct Québec, and the presence of a major linguistic minority in one province has been a defining element of political life generally and intergovernmental relations more specifically. Pressure from Québec also resulted in the creation of (admittedly limited) institutional mechanisms to represent its specificity. Over time, Québec has consistently resisted centralization and pushed for decentralization.

This decentralizing tendency is particularly apparent if we look at a subsequent critical juncture, the election of the Lesage Liberal government in Québec in 1960. This marked a turning point in both Québec-Canada relations and in interprovincial relations. The election marks a key singular point after which the dynamic of intergovernmental relations was altered. Prior to 1960, Québec was insular in its approach to federalism, whereas the election of Lesage put Québec on a path which governments in that province still follow to varying degrees. That path is one of assertiveness in intergovernmental relations and engagement in horizontal PT relations. This is a crucial point: Québec governments have been a driving force for *horizontal* IGR in Canada. It was at Lesage's instigation that the inaugural Annual Premiers' Conference (APC) was held in 1960, creating a regular forum for horizontal relations. The provincial government's assertiveness is more cooperative when the provincial Liberals are in power, but if anything, this makes Québec a more influential participant in IGR. An additional effect of this dynamic is that the strength of PT and FPT relations change depending on who is in power in Québec, going through cycles, particularly after the sovereigntist Parti Québécois' (PQ) first victory in 1976 (though present before as well). This brings to mind Alan Fenna's warning that in the absence of a cultural basis for federalism, federations "...will see the balance tilted

overwhelmingly in favour of the central government.” (Fenna 2007: 302). Québec has therefore not only been a strong supporter of provincial rights, it has also been instrumental in pushing for horizontal IGR in Canada.

By contrast, when the Australian states’ loss of their fiscal and jurisdictional autonomy was accelerated after the Second World War, there was little recourse. Without a national minority which linked its very survival with a strong province, there was nothing like the same kind of pressure in favour of states’ rights.

Fiscal Federalism

Fiscal federalism also represents some critical junctures in Canada and Australia. In both countries, fiscal federalism has been at the heart of many of the most significant shifts in intergovernmental relations. This is particularly true in Australia, where fiscal issues have tended to take up much of the centralization debate without being overshadowed by fiery debates over national unity. The story of fiscal federalism in Australia is one of gradual centralization, accelerating particularly in the late 1920s and early 1930s with the creation of two institutions of vertical IGR (the Australian Loans Council and the Commonwealth Grants Commission). Both of these institutions not only further extended the dependency of the states on the Commonwealth, they also provided institutions of regularized vertical IGR. Perhaps the single most important critical juncture in understanding Australia’s high degree of fiscal centralization is the Commonwealth government’s assumption of income tax during the Second World War. More than anything else, this changed the fiscal landscape in Australia in favour of the Commonwealth government, which put the states in an embattled position (Painter 1996: 103). This has not significantly changed in close to 65 years.

Fiscal federalism has been subject to major turning points in Canada as well. A critical juncture came immediately after World War II, when the larger provinces renounced the tax-rental agreements that had been in effect during the war. This stands in obvious contrast to the Australian case. A second critical juncture came in the 1990s with the significant cuts to federal transfers to the provinces. This break became a key moment for the eventual creation of the Council of the Federation. More generally, part of the reason for the importance of Canadian provinces is their fiscal independence relative to that of the Australian states. In Canada, the provinces collect as much (and more since 2003) in taxation revenue as the federal government

does (Statistics Canada). In Australia, the states' share of taxation revenue constitutes less than 20 per cent of what the Commonwealth collects (Australian Bureau of Statistics). The policy implications of this are not necessarily centralizing: Parkin, for instance (2003: 107), notes that the conditions attached to Commonwealth grants can be "quite general", leaving the states "wide discretion" about how the funds are to be spent. That said, the Australian states are beholden to the Commonwealth on a level that is simply not the case in Canada.

The relevance of this to the issue of verticality/horizontality becomes apparent if we consider what relative fiscal autonomy has meant for Canada. Australia has had, as a result of its fiscal centralization, regular forums for vertical IGR. Canada, by contrast, has not. While this alone does not explain the prevalence of horizontal IGR in Canada, it at least partly explains the absence of vertical IGR.

Judicial Interpretation

If there is one single critical juncture in the history of federalism in Australia, it is the 1920 *Engineers* case, which affirmed the jurisdiction of Commonwealth industrial legislation over that of the states (Zines 1989: 106). Although there have been several cases since that time which have increased the Commonwealth government's power (such as the *Tasmanian Dams* case), the *Engineers* case is critical because it shifted the way the High Court interpreted the constitution from one which considered the intent of the founders to one which was based on the strict word of the constitution: "In the field of judicial interpretation, while the First High Court was notably federalist in its approach to the Constitution, the complexion of the Court had so changed by 1920 that the *Engineers* decision permanently defined the tone of constitutional interpretation in Australia as ultra-literalist and hyper centralist." (Craven 2007: 26).

The *Engineers* case created a precedent which put Australia on a path of centralization. Because the High Court no longer considered the 'states first' intent of the founders in its subsequent judgement, the Commonwealth has tended to win, expanding its power (Zines 1989). The Commonwealth's expanded spending power and external affairs power have allowed it to act in virtually any area of jurisdiction. All of this began with the *Engineers* case. The case represents a critical juncture not because anything was possible beforehand, but because it represented a significant shift in the course of federalism in Australia. Moreover, it also fits the

case of a locked in path. The Commonwealth's domination of IGR in Australia has been more or less consistently reinforced by judicial interpretation.

Canada has also seen the judiciary reverse the intentions of the Founding Fathers; in this case it has tended towards decentralization from centralizing origins. However, the Canadian literature is not quite as clear on a single case. Where the Australian literature tends to point to the *Engineers* case as the ground-breaking one, the gradual weakening of the significant powers granted to the federal government in Canada occurred over a number of years and a number of cases. Similarly, the strengthening of provincial jurisdiction also occurred over several different cases. If one were to choose a single case that contrasts Canada and Australia, however, it would be *Toronto Electric Commissioners v Snider* (1925). Whereas *Engineers* affirmed Commonwealth industrial legislation over that of the states, *Snider* affirmed provincial supremacy in matters of property and civil rights, which extended to industrial legislation (Dawson 1933: 445). Although it is not directly related to *Snider*, the Supreme Court of Canada's December 2011 decision that a proposed national securities regulator was in contravention of provincial property and civil rights is in keeping with the history of courts taking a limited approach to their interpretation of the Canadian constitution.

In Canada, the result of judicial interpretation has been that provincial jurisdiction on many issues has been affirmed. This fundamentally affects the dynamic of federalism: there is no discussion of a national school curriculum in Canada, for example, because education is a provincial jurisdiction. Again, this does not alone explain the importance of horizontal IGR, but it does limit (to an extent) the agenda and the frequency of vertical IGR in Canada.

Party System

Analysis of party systems in Canada and Australia also provides us with some critical junctures. In Canada, the disintegration of the integrated national party system began to occur after the First World War. This gradually led to the present system which features a variety of integrated, semi-integrated and truncated parties. Thus, intergovernmental relations are not impacted by partisanship in the same way as in Australia, in terms of both horizontal and vertical IGR. Two examples will suffice to demonstrate the variety of political affiliations present in Canada. First, when the inaugural APC was held, the ten premiers represented 4 different political parties, and Lesage's party, the Liberal Party of Québec, was unaffiliated with the

federal Liberal Party. Second, when the Council of the Federation was created in 2003, three provincial governments were run by their respective Liberal Parties, but none of those parties was connected with the others or with the federal party. This situation is typical of Canadian politics.

In Australia, the formation of a national party system began prior to federation, with the creation of the Labor Party. The critical juncture, however, came with the formation of the Liberal Party in 1908, which established the left-right divide in national *and* state politics. This has proven to be an important facet of Australian federation. Moreover, the impact is as much a positive one as it is negative. In other words, partisanship has both helped foster intergovernmental cooperation and has hindered that cooperation (as will be elaborated further on).

One cannot deny the importance of the timing of the election of the Lesage government and of Lesage himself in the creation of the horizontal Annual Premiers' Conference in Canada in 1960. However, if the combination of personality and circumstance was all that was necessary, one might think that certain periods might have yielded greater horizontal inter-state relations in Australia. Yet partisanship is a crucial factor. Partisan differences have played a role in preventing the creation of an equivalent APC in Australia. They certainly played a role in the two examples of horizontal Australian IGR (the Council of States, created in 1975 and the Council for the Australian Federation, created in 2006). This is as much a reflection of partisan loyalty as it is of partisan opposition. Whereas partisan opposition to the Commonwealth government may instigate inter-state action, partisan loyalty may also prevent it. This was noted by a state official: "...don't underestimate the party allegiances... there are cross cutting allegiances too... when you're looking at the intergovernmental relations context, you need to be aware of those" (Anonymous Interview 2011f). This suggests that the truncated party system of Canada has been instrumental in allowing FPT relations to develop, while the national party system in Australia has had the opposite effect.

Attempts by the states to create an alternative, multilateral inter-state organization have so far amounted to little. Sustained multilateral relations between the states have not been a feature of federalism in Australia, as compared to Canada, where a minimal (though ever increasing) level of inter-provincial relations were maintained from the 1960s on.

The previous section outlined some critical junctures which help explain why Canadian federalism is on a path of decentralization and horizontal IGR, while Australian federalism has moved in the direction centralization/vertical IGR. These two paths stand in marked contrast to one another. Two examples of institutionalized IGR further confirm these paths. Canada and Australia both faced severe fiscal problems in the 1980s and 1990s. In both countries, new institutions of intergovernmental relations emerged. In Australia, however, that institution (COAG) was vertical in nature while in Canada it was horizontal (COF). Moreover, in both federations the new institution was not a radical innovation, but was rather an extension of previous trends.

COF

Understanding the Council of the Federation means understanding the culmination of many years of development of horizontal provincial-territorial (PT) relations in Canada. COF is in keeping with the evolving dynamic of IGR in Canada. A confluence of events during the late 1990s, culminating in the election of the Liberal Québec Charest government in 2003, made the creation of COF possible. Since its creation, however, COF has become a forum for horizontal collaboration rather than a forum in which to deal with the federal government, as originally envisioned. Institutional factors as well as the personal predilections of prime ministers were influential in influencing the path that COF has taken.

Prior to the Second World War, IGR was relatively limited, in Canada as in Australia. However, beginning in 1960, the tone of intergovernmental relations in Canada began to change. This change was reflected in federal-provincial relations, where Québec emerged as a key challenger of the federal government. Where previous Québec governments had rebuffed federal ‘intrusions’ without offering alternative solutions, the newly elected Liberal government of Jean Lesage took a more pro-active role in social policy (Bavkis et al 2009: 36). Québec went from being a relatively passive participant in intergovernmental relations to taking the lead on many files and aggressively pushing the federal government on a number of matters (Ibid). The first Annual Premier’s Conference (APC) was also hosted by Québec in 1960, creating a regularized forum for horizontal IGR which has only rarely been present in Australia. The importance of Lesage’s election to horizontal IGR can hardly be over-stated: without that critical juncture, the APC may not have been created.

The 1960s began a pattern that continues to this day. When federalist Liberal governments are in power in Québec, that province tends to assume a leadership role in the federation. It is not surprising that both the APC and COF were created at the suggestion of Québec Liberals. When sovereigntist Parti Québécois (PQ) governments (or even the Union Nationale, which was the political opponent of the Québec Liberals in the 1960s) have been in power in Québec, the province's participation in inter-provincialism has been much more limited (Ryan 2003: 6). The APC thus established an increasingly formal tradition of interprovincial and -after 1982- provincial-territorial relations in Canada. This underlying trend towards horizontality was compounded by a set of institutions for regional IGR³. Why then was the Council of the Federation created, how was it different from the APC, and why was a vertical component absent?

The 1995 federal budget caught the provinces by surprise. Fiscal federalism, which had played a less prominent role during the long debates over the constitution and national unity, became a major point of contention. Cuts were expected, even significant cuts, but the extent of the retrenchment- a 25 per cent reduction in federal transfers between 1995 and 1998- surprised many (Hale 2006: 388). This changed the relationship between the federal, provincial and territorial governments. Long established links between the federal and provincial governments were ruptured, and the 'trust ties' which had made intergovernmental cooperation effective were broken. The already strained tone of IGR following the budget cuts was not improved by the presence of a PQ government in Québec from 1994 to 2003. Despite this, beginning in 2000, the premiers were able to focus their efforts on the Premiers' Council on Health Awareness, a public relations campaign that brought attention to federal budget cuts. According to one official, the experience showed certain premiers that if they worked together in a concerted way, they could achieve results. Indeed, the same official believes that the dynamic of IGR in Canada since 1995 has become a provincial-territorial one, rather than a federal-provincial-territorial one (Anonymous Interview 2010b).

³ Since the 1970s, Canada has also had a variety of regional institutions of IGR, from the Western Premiers Conference, to the Council of Atlantic Premiers, to the more recent New West Partnership. Several provinces have also held joint cabinet meetings.

As has often been the case in Canadian history, the change of government in Québec ushered in a new period in intergovernmental relations. After nine years of PQ governance, the Charest Liberals were elected in April 2003. The Council of the Federation (proposed by a special committee of the Québec Liberal party in 2001) was an immediate priority for Premier Charest and he began gauging the reaction from other premiers very soon after the election (Anonymous interview 2011a). Charest's first out of province visit was with Manitoba Premier Gary Doer to discuss the creation of the Council of the Federation (Thomas 2008: 42).

A council of the federation had been proposed by the Québec Liberal Party's Pelletier Report in 2001. However, what emerged in 2003, was significantly different from what the report had suggested. The Report suggested the creation of a Council of the Federation which was to be a federal-provincial council that dealt with all manner of national concern; it envisaged COF, in its final form, as a quasi-constitutional body which would work with the Senate (Pelletier 2001: 104).

According to one official, the reason that COF did not adopt many of the recommendations of the Pelletier Report was that the Charest government did not believe the other premiers would accept the idea of a quasi-constitutional, federal-provincial COF (Anonymous interview 2011a). Charest's proposal was therefore grounded in what he believed the other premiers would accept. For their part, the other premiers were suspicious of the federal government, and according to several interview subjects, the premiers made a deliberate choice to keep the federal government out of COF. They also felt there was considerable room for coordination within their own areas of jurisdiction, and did not want the federal government sitting in on those discussions (Anonymous Interview 2011b). This development is worth highlighting: given the opportunity, the premiers chose to create a horizontal institution of IGR, rather than attempt to create a vertical one. Even though they imagined that COF would work with Ottawa, they deliberately chose not to have the federal government at the table.

COF was envisaged as an institution with two purposes: coordinating provincial-territorial action vis-à-vis the federal government and coordinating action between the provinces and territories on matters within their own jurisdiction. As regards the first purpose, federal-provincial-territorial coordination, initially, COF experienced some success in coordinating provincial-territorial response to the federal government, particularly in the 2004 health negotiations with Prime Minister Paul Martin. To an extent however, this was based on Martin's

willingness to negotiate with the premiers collectively, allowing the latter to present a united front. Although the 2004 health agreement was a success, Bavkis et al (2009: 111) note that consensus foundered on the fiscal imbalance, and the premiers proved unable to collectively deal with that issue. As one official noted, “COF is as strong as its weakest link... To the extent that [the premiers] want to participate, and cooperate and collaborate and work together, COF is successful. To the extent they don’t, COF is not. And there’s no way you can get around that” (Anonymous Interview 2010b).

COF also works within the limits of jurisdictional authority. As noted above, judicial interpretation has confirmed provincial authority in a number of cases. This not only impacts how the provinces approach the federal government, it impacts how they approach each other. This was noted by one provincial official: “...we approach [intergovernmental] files with the view that our premier objective is to maintain policy flexibility. And for the most part, we’re no more willing to yield to the policy prescriptions of others, whether that be Ottawa or the other provinces and territories collectively.” (Anonymous Interview 2011h).

The premiers also cannot work with the federal government if the prime minister is not willing to work with them. This is best demonstrated by the results of the 2006 election of the Harper Conservatives. During that election, Harper committed to “Open Federalism”, a policy based on allowing each order of government to exercise power over its own jurisdiction. It eschews major federal initiatives in areas of provincial jurisdiction (such as a national daycare program), while seeking to impose accountability frameworks on federal-provincial transfers (although the most recent developments seem to have done away with some of the reporting requirements). As one official noted: “...[Open federalism] does make some of the work that was originally envisaged by COF a little bit more difficult. So consequently, COF has adapted to the present operating environment” (Anonymous interview 2011b)

Prime Minister Harper has demonstrated commitment to a reduced role in social policy for the federal government since coming to power in 2006. There have also not been any multilateral first minister’s meetings, although Harper was said to maintain good bilateral relationships with individual premiers (Anonymous Interview 2011c). In an apt demonstration of the federal unilateralism that has characterized federal-provincial relations since 2006, in December 2011, federal Finance Minister Jim Flaherty announced to his provincial counterparts that “health transfers will continue to increase at 6 per cent a year until 2016-17 before moving

to a system that ties increases to the growth in nominal Gross Domestic Product” (Bailey and Curry 2011).

With the federal government absent from the table, COF has focused its efforts since 2006 on the second of its goals –increasing horizontal coordination between the provinces and territories— with COF agendas becoming much more centered on provincial-territorial concerns, such as interprovincial trade, water management, and education. In many ways, COF appears to be the APC by another name. Indeed, at the time of its creation, Harvey Lazar wondered whether COF would be anything more than “...old wine in a new bottle?” (Lazar 2003: 1). Many provincial and territorial officials generally agreed with this assessment, although interview respondents were unanimous in pointing to the founding agreement, which the APC did not have, as providing greater structure to COF’s work. They believed that the presence of a steering committee, a secretariat, and funding has also made COF more substantial than the APC. The secretariat has been useful in providing ongoing administrative support and corporate memory, according to one respondent (Anonymous Interview 2010a). Several officials commented that COF has made premiers more strategic by forcing them to focus on four or five key points: “They think about their communications messages, they think about what they’re going to ask for, and it’s not a laundry list, it’s shorter and snappier” (Anonymous Interview 2010b).

There are, therefore, differences between COF and the APC. For example, the APC was mainly a venue for socializing. Although there were official meetings, its primary purpose was to allow the premiers to get to know one another, often by an afternoon of golf. The social component, while still present, is much less prominent under COF. This is perhaps best demonstrated anecdotally: at the 2010 COF summer meeting in Winnipeg, only one premier, Darrell Dexter of Nova Scotia, attended the golf event.

Despite these differences, however, COF is in keeping with the trend of slow evolution of horizontal IGR in Canada. It is also partly a response to the decentralization of the Canadian federation. In part, this focus on horizontality has been necessitated by the fact of a disinterested prime minister. Nonetheless, since the 1960s, the premiers have had a history of working together in a low key manner. Despite the hopes of some, and the critiques of others, the Council of the Federation is no radical departure. It is a reflection of the nature of IGR in Canada.

COAG and CAF

Unlike in Canada, where there has never been a tradition of regularized federal-provincial-territorial relations, Commonwealth-state relations in Australia have been part of the intergovernmental landscape since the 1920s. This has been reflected in numerous developments since then, most notable the creation of the Council of Australian Government (COAG) in 1992. Although the impact of COAG has varied since its creation, it is a reflection of the fact that in Australia, intergovernmental relations are centered on Commonwealth-state relations, almost to the exclusion of inter-state relations.

In the absence of concerns over national unity, discussions of federalism in Australia have been centered around fiscal federalism. Although in many respects, the federal dynamic in Australia was similar to that of Canada prior to the Second World War, two institutional developments are worth pointing out. As noted above, beginning in 1920 Australia began moving away from the decentralized vision of the Founding Fathers. This was accelerated by the fiscal circumstances of the states, particularly the “marginal” states of Western Australia, Tasmania and Southern Australia (Maxwell 1938: 269). In 1927, a financial agreement was signed which provided for national assumption of state debt and the creation of the Australian Loans Council (Ibid). According to Wiltshire (Ibid), this move and the subsequent constitutional amendment which enshrined it gave the Commonwealth government the upper hand in fiscal matters. This was followed in 1933 with the creation of the Commonwealth Grants Commission (Parkin 2003: 122). Thus, we can see that from quite early, Australia had regularized vertical IGR.

The “mendicant, embattled” fiscal position of the states was exacerbated after the Second World War (Painter 1996: 103). As in Canada, the Australian Commonwealth government assumed all taxation during the Second World War. Unlike Canada, however, the Commonwealth government did not relinquish that power after the war. In the aftermath of the war, the Canadian provinces became increasingly independent financially, while the Australian states “...retained their dependence on national government largess” (Wiltshire 1989: 188).

Australia has never developed a sustained tradition of horizontal IGR in large part because of the early creation of vertical institutions. Indeed, in a significant way, the Commonwealth has dictated the timing and the nature even of what the premiers discuss amongst themselves: even though premiers have traditionally met prior to major IGR

conferences, this has been done to discuss the upcoming meeting with the Commonwealth. IGR has centered on vertical relations with only two exceptions: The Council of States, and the Council for the Australian Federation (CAF).

The Council of States arose in the 1970s at the time of the Whitlam government. Whitlam is primarily known for two things: his controversial dismissal by the Governor General in 1975, and the extreme degree of centralization with which he approached federalism. Indeed, Whitlam's time in office is so synonymous with centralization that Parkin and Anderson (2007: 306) refer to centralization in the latter part of the 1990s as "Whitlamesque". Whitlam's centralization occasioned a push-back from the states and eventually led to a rare occurrence of horizontal IGR, the creation of a Council of States by the four non-Labor states (Warhurst 1983: 311). Although ostensibly created to improve communication and coordination between states, according to Warhurst (Ibid): "...it's main function was to co-ordinate partisan resistance to the federal Labor government." Deprived of its partisan *raison d'être*, the Council ceased to exist shortly after the defeat of the Whitlam government. Until the creation of the Council for the Australian Federation in 2006, it remained the sole example of a formalized inter-state organization. Although short lived and partly the result of the integrated party system, the Council of the State demonstrated that the lack of inter-state interaction in Australia was the result of convention, not inability. It also served as a warning to future Commonwealth governments not to antagonize the states too much: towards the end of his time in office, Whitlam began taking a more cooperative approach to intergovernmental relations (Ibid).

In 1990, the Commonwealth Labor government of Bob Hawke turned its attention to economic reform of the federation in the name of efficiency. According to one official, the reason for this was that "[Prime Minister] Hawke didn't have a fourth term agenda", and it was apparent that after 1992, Europe faced fewer internal trade barriers to trade than Australia (Anonymous Interview 2011d). With this, Hawke's focus turned to the barriers to internal trade in Australia, which had long been the subject of scathing critiques by certain constituencies in Australia, particularly the business lobby (Painter 1998: 3). Part of the common understanding of federalism in Australia is "...the assumption that federalism is inherently inefficient" (Anderson 2008: 494). It is quite common in both academic literature, political documents and public discussion to find assumptions that federalism is a hindrance to economic performance in

Australia (Smith 2007: 202). This contrasts with Canada, where assessments of federalism cannot escape the issue of nationalism in Québec.

Hawke and his successor, Paul Keating, realized that in order to get the states on their side, they would have to consider their demands for a regularized forum of intergovernmental (particularly fiscal) discussions which would meet predictably and which would feature the first ministers (Painter 1998: 44). Both sides compromised in order to create the Council of Australian Government (COAG), which was founded May 11, 1992 (Ibid).

The Council of Australian Government was a development in keeping with the way intergovernmental relations are conducted in Australia. Although it was a more regularized forum than existed previously, the fundamental dynamic of federalism in Australia has not changed. The Commonwealth government still has most of the fiscal and constitutional power. State officials still feel as though the Commonwealth operates on a ‘divide and conquer’ strategy (Anonymous Interview 2011e). *All* Commonwealth officials interviewed were quite open in admitting to a “carrot and stick” approach to state relations.

The election of John Howard’s Liberal coalition government in 1996 changed the immediate nature of federalism in Australia. Howard showed little interest in operating within the framework of COAG, such that in 2002 (155), Galligan and Wright were able to say that “...the Howard Liberal coalition government elected in 1996 has been unconcerned with federalism, showing little interest in, and giving no leadership to, COAG... COAG may have served its purpose for the present.” Over the course of his time in office, Howard maintained either ambivalence or hostility to COAG⁴. In 2005, Howard put forth his new vision of the role of the Commonwealth government, stating that he had “...little time for state parochialism”. This was followed by a set of similar statements which culminated in his declaration of a policy of ‘aspirational nationalism’, which he proclaimed quite openly might bypass the states altogether where necessary (Anderson 2008: 498).

In reaction to the sporadic nature of COAG over the Howard period, state premiers, led by Mike Rann of South Australia, sought to create a more regular way of coordinating inter-state action (Tiernan 2008: 125). An important catalyst for further horizontal collaboration came from

⁴ Although in the aftermath of the attacks of September 11, 2001, COAG proved a useful framework for coordinating action on security and emergency preparedness (Anderson 2008: 500).

overseas, when Rann met Manitoba premier Gary Doer at a conference in the United States in 2005. There, Doer briefed Rann on the Council of the Federation. The idea resonated with Rann, who returned to Australia and set out to create a similar inter-state forum in Australia (Ibid). Despite some reservations, he managed to convince his fellow premiers of the merits of the idea, and in 2006 the Council for the Australian Federation (CAF) was created.

Partisan context played an important part in its creation. At the time, all state and territorial governments were controlled by the Labor Party, while the Liberal coalition held power in Canberra. CAF initially experienced some success in creating an emissions reduction plan, which forced the Commonwealth government to react. CAF's success was partly due to its cohesion, which in turn was linked to the antagonism between the Labor states and the Liberal coalition controlled Commonwealth. Commonwealth Labor leader Kevin Rudd used this to his advantage in the 2007 election, noting the need for "cooperative federalism" and the need to "end the blame game" that perpetually saw the federal and state governments blaming each other (Tiernan 2008: 129). According to a Commonwealth official, "John Howard could have neutralized [CAF's] agenda if he'd been half interested in it, but there was this well-developed, articulated agenda that Kevin Rudd just picked up and ran with." (Anonymous Interview 2011d).

Ironically, Rudd's success in adopting CAF's agenda has arguably led to its decline. Rudd re-invigorated COAG almost immediately after being elected, which reduced CAF to a pre-COAG meeting of the premiers, similar to what has existed since the 1930s. The ascendancy of Labor was short lived, and CAF's relevance has also diminished as the Coalition came to power in Western Australia in 2008, Victoria in 2010 and New South Wales in 2011.

CAF is a body which stands out in the context of Australian IGR. As mentioned, it is tied to the role of the integrated party system in Australia. As states gradually changed government, the dominance of Labor was reduced. Moreover, the renewal of interest in COAG made CAF's work a return to the traditional focus of how to deal with the Commonwealth. CAF still meets; it did so before the March 2011 COAG meeting. However, as one official noted, there is some question as to whether the Coalition premiers have any serious interest in maintaining CAF, given that it was a creation of Labor (Anonymous Interview 2011f). "...State and territory premiers have always caucused before a COAG, so whether it's under the more formal auspices of CAF or whether they just get together in the hotel the night before, it will still happen" (Ibid).

None of the officials expected much of CAF beyond its continued existence. Commented one official: “I never expected much of CAF” (Anonymous Interview 2011e). Although some officials were more optimistic than the citation above, they too recognized that CAF tends towards lowest common denominator solutions and while the states could reach agreement on high level matters, they were often unable to come together on the details (Anonymous Interview 2011g).

In this way, CAF is similar to the Leaders’ Forum, a meeting of the premiers held prior to COAG meetings. The Leader’s Forum was partly comparable to the APC in Canada. Yet the Leaders’ Forum was concentrated on the upcoming COAG meeting, and was focused on vertical, not horizontal, concerns. Moreover, COAG meetings are called by the prime minister, which means that effectively, the premiers were meeting each other at the instigation of the prime minister. This stands in contrast to the regular yearly meetings of the Canadian premiers which existed independently of any FPT conference.

A set of historical factors have created a history of vertical IGR in Australia. This was a result of both historical-institutional factors (judicial interpretation, party affiliation) and the personal style of individual first ministers (particularly prime ministers). COAG was a development in keeping with the tradition of IGR in Australia. CAF, on the other hand, was one of only two attempts at regularized horizontal IGR in Australian history. Like the Council of States before it, it was grounded in the partisan circumstances of the time. As such, it has had little relevance outside of the brief period between its creation and the election of Rudd in 2007.

Conclusion

The power of the Commonwealth in Australia is the result of court decisions and fiscal centralization, the end result being Commonwealth domination of IGR in Australia. Yet in both Australia and Canada, the federal government played a key role in the creation of the welfare state after the war. The conditions which led to the creation of the welfare state were not altogether different in both federations. Why then did interprovincial relations develop as a feature of IGR in Canada while inter-state relations remained undeveloped in Australia? The answer lies in a number of factors. More broadly, however, the same factors which made Australia centralized also supported vertical IGR, while the factors which made Canada decentralized tended to support the development of horizontal IGR.

First, an early critical juncture was the simple presence of a major national minority from the outset, which created centrifugal forces in Canada absent in Australia. A further critical juncture came with the election of the Lesage government in 1960, which led to the development of regular inter-provincial relations. Second, the integrated party system in Australia means that both state and Commonwealth politicians operate along similar partisan lines. The impacts of this are clear when we consider that the two attempts at horizontal IGR in Australia—the Council of States and the Council for the Australian Federation— were both enabled and crippled by the same force: partisanship. In Canada, the crumbling of the national party system following World War I meant that partisan concerns played a much less prominent role in IGR, generally acting neither as the source of cohesion nor as the source of conflict.

Third, since the Second World War, the Australian states have become increasingly fiscally dependent on the Commonwealth. Indeed, since even before the war, the dynamic of IGR in Australia has revolved around Commonwealth control of the purse-strings. This particular variable provides us with diverging critical junctures in Canada and Australia: while the provinces gradually had their taxation powers returned to them, the states did not. Finally, judicial interpretation also provides diverging critical junctures: in both Canada and Australia, the courts interpreted the Constitution in ways the Founding Fathers did not intend, with opposite results.

The story of federalism is often told as one of either institutions or of agents. This paper has generally sided with the former, but does not wish to deny the importance of agency. To do so would be a serious error; Donald Smiley's notion of agent centered 'executive federalism' is an entrenched part of the literature on parliamentary federalism. Yet overly focusing on particular agents, especially prime ministers, can blind us to the fact that a good deal of what exists today has been conditioned by past events. IGR is no different. An understanding of historical junctures is required to understand why IGR has had a horizontal component in Canada but only a vertical one in Australia.

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