



# Royal Commission on Renewing and Strengthening Our Place in Canada

## Assessing Newfoundland and Labrador's Position on Canada's Evolving Federalism Landscape

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The views expressed herein are solely those of the author and do not necessarily reflect those of the Royal Commission on Renewing and Strengthening Our Place in Canada.

## Contents

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<b>Introduction</b> .....	<b>5</b>
<b>Demographic Landscape</b> .....	<b>7</b>
<b>Political Dynamics of Canadian Federalism</b> .....	<b>9</b>
<b>Changes to the Constitutional Framework of the Canadian Federal State</b> .....	<b>11</b>
<b>Changes to the Institutional Framework of the Canadian Federal State</b> .....	<b>15</b>
<b>Programmatic Federalism</b> .....	<b>19</b>
<b>Newfoundland in the Contemporary Canadian Federal State</b> .....	<b>23</b>
<b>Conclusion</b> .....	<b>27</b>
<i>Bibliography</i> .....	<b>29</b>
<i>About the Author</i> .....	<b>30</b>

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# Introduction

Canada has changed dramatically in the nearly 54 years since Newfoundland joined Confederation. Our population has more than doubled, prosperity has increased dramatically, continental integration has advanced substantially, and there have been profound changes in social values. It should come as no surprise, therefore, that Canadian federalism has also evolved since 1949. The objective of this submission to the *Royal Commission on Renewing and Strengthening Our Place in Canada* is to sketch the nature of that evolution, and to assess whether it has worked to the advantage or disadvantage of the province and people of Newfoundland and Labrador.

*In broad strokes, the picture that will emerge is one of a new federal order that provides a better system of national governance than the one Newfoundland embraced in 1949. Although the province's relative economic position in Canada has not greatly improved, and indeed in some respects has declined, the federal system itself has evolved in a direction that generally supports the interests and aspirations of Newfoundland and Labrador.*

The submission is comprised of six sections:

- The first will outline background changes in the country's demographic landscape, with particular attention to those with greatest relevance to the nature of Canadian federalism.
- The second will briefly identify a number of changes in the political dynamics of the Canadian federal state.
- The third will examine how the constitutional framework of the Canadian federal state has been adjusted in the light of demographic and political change.
- The fourth will explore how the institutional framework of the Canadian federal state has responded to environmental change.
- The fifth will discuss how the programmatic characteristics of Canadian federalism have evolved.
- The final section will provide both a summary of evolutionary changes since 1949, as they relate to Newfoundland and Labrador's place in Canada, and a prognosis of what we might expect in the years ahead.

As will be seen, *although Newfoundland and Labrador has not been a primary driver of change in the nature of Canadian federalism, it has been a net beneficiary.*

Before turning to the meat of this discussion, it is important to note a number of caveats. First, although the evolution of Canadian federalism has been extensive and complex, the objective of this analysis is not to capture the detail of that evolution. Rather, the focus is on its broader characteristics and implications for Newfoundland and Labrador. Second, my own understanding has inevitably been shaped by my career location as a political scientist at the University of Calgary. As a result, western Canadian interpretations of federalism will undoubtedly loom larger than they might for other scholars. Third, it should be noted that because federalism is so ubiquitous in Canadian politics, flowing as it does into virtually every nook and cranny of political life, there is an inevitable tendency for discussions of federalism to be all-inclusive and thus overly ambitious. I will try to limit my remarks to the core of

federalism: the relationships between the national and provincial governments in Canada, and the constitutional and institutional contexts within which those relationships are forged.

## Demographic Landscape

The demographic underpinnings of the Canadian federal state have changed in some important if not necessarily dramatic ways since Newfoundland joined Confederation. Table 1, which compares the regional composition of the Canadian population at the time of the 1951 and 2001 Censuses, shows there has been a gradual yet sustained shift in the regional distribution of the national population from Atlantic Canada and Quebec to the West and, particularly, to Ontario. This shift, however, has had little impact on the national *political* landscape. Quebec's demographic decline has not diminished its weight in national affairs, and the West's growth has not resulted in any discernible shift of political power to the region. It should also be noted that demographic shifts have been imperfectly reflected in the regional composition of the House of Commons. Grand-fathered seat allocations and a measured – some might say maddeningly slow – response to new Census counts ensure that diminished demographic weight does not lead quickly, or for that matter automatically, to diminished electoral weight.

**Table 1: Canada's Demographic Profile, 1951 to 2001**

	1951 Census	2001 Census
Atlantic Canada's % share of the national population	11.5	7.6
Newfoundland's % share of the national population	2.6	1.7
Quebec's % share of the national population	29.0	24.1
Ontario's % share of the national population	32.8	38.0
West's % share of the national population	26.5	29.9

Two important elements of demographic transformation are not captured in Table 1. The first is the growing ethnic and racial complexity of the national population, a result of changing patterns of immigration and the greater net impact of immigration as Canadian birth and fertility rates decline. The second is the increased political prominence of the Aboriginal population, a change attributable only in small part to demographic growth. Both elements have had a greater impact on the country as a whole than they have had on Newfoundland and Labrador.

What, then, are the federalism implications of this demographic transformation? In relative terms, Newfoundland and Labrador is a shrinking province within a shrinking region, and has a demographic character increasingly out of line with the national mainstream. At the same time, the federal system itself ensures that these changes will not seriously erode Newfoundland and Labrador's position within Confederation. Put somewhat differently, federal institutions provide an effective although not impermeable line of defence in the face of demographic decline.

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# Political Dynamics of Canadian Federalism

Federal politics, and ultimately the constitutional and institutional frameworks of federal states, are buffeted by broader political dynamics. What, then, have been the major changes in political dynamics since Newfoundland joined Confederation? Although the potential list is endless, five have the greatest relevance for federalism: the rise of the nationalist movement in Quebec, the growth of regional discontent in western Canada, the transformation of the national party system, the rise of Aboriginal nationalism, and increased continental integration with the United States. Of the five, the rise of the nationalist movement in Quebec goes most directly to the character of the Canadian federal state.

Within the context of this report, little space can be allocated to a detailed history of the nationalist movement in Quebec and its enormous impact on Canadian federalism. Suffice it to say that Quebec's place in Canada, or potentially outside Canada, was *the* national question from the early 1960s through the mid-1990s. The complex constitutional process that Canadians experienced was driven almost entirely by that question even if, ironically, the constitutional changes that did eventually occur reflected the values of other regions more than they reflected the constitutional values and aspirations of Quebec. The nationalist movement, spearheaded by both sovereigntist and federalist governments in Quebec City, challenged virtually the entire range of federal values of interest to Newfoundland including the formal equality of provinces, the programmatic capacity of the national government, and the definition of Canadian citizenship. Of particular concern was the drive for greater decentralization. There is no question that the prolonged constitutional process was a high stakes endeavour for the governments and people of Newfoundland, one in which both were thoroughly engaged.

By contrast, the growth of political discontent in western Canada was a more limited challenge for Newfoundland and the source of some opportunities. To a degree, of course, western alienation embodied a call for a transfer of political power to the West and, at least implicitly, away from other regions of the country. However, that call primarily took the form of a quest for institutional reform, one that challenged the Canadian Senate, party discipline within the House, and the concentration of power within the hands of the Cabinet and, more specifically, the Prime Minister. Although greater decentralization appeared occasionally on the regional reform agenda, it was not a dominant or consistent theme; the focus was more on exercising greater power at the centre – “The West Wants In” – than it was on moving the locus of power to provincial governments. As will be noted below, the reforms championed by western Canadians were far from hostile to the position of Atlantic Canada or Newfoundland within Canada. Indeed, the West's defence of both provincial equality and provincial ownership of natural resources, and concerns about federal intrusions into provincial jurisdiction, all resonated well within Newfoundland.

However, the western push for institutional reform was notably unsuccessful, and thus the primary consequence of regional discontent was the transformation of the national party system. This came first with longstanding regional alienation from the Liberal party and governments, and second with the creation of the Reform Party of Canada in 1986 and the recasting of Reform into the Canadian Alliance in 2000. As a consequence, although not by design, party politics have become polarized along regional lines, with no immediate change in sight. While one might argue that the result of this polarization has been the further isolation of

western Canada and sustained discontent within the region, the transformation of the national party system may have enhanced the electoral importance of Atlantic Canada. Partisan gridlock in both the West and Ontario – the Liberals have few seats to lose in the West and virtually none left to win in Ontario - has meant that the swing seats that might determine future governments are most likely to be found in Atlantic Canada and Quebec. Partisan turmoil in the West, therefore, has not come at the expense of electoral clout for Atlantic Canada.

Although Aboriginal issues were scarcely on the political map when Newfoundland joined Confederation, this situation has changed dramatically. For a variety of reasons, including but by no means limited to the constitutional process and the growing role of judicial politics, Aboriginal issues have moved to the centre of Canadian political life. Determining how best to incorporate Aboriginal governments within federal principles and institutions has emerged as a daunting public policy question. However, until recently the effects of land claims, the impact of self-governing Aboriginal communities, and the complexities of urban Aboriginal issues were all greater outside Newfoundland and Labrador than they were within. While this transformation of the national political agenda did not leave Newfoundland and Labrador untouched (e.g., land claims and the evolution of the Innu first nation in Labrador), nor did it challenge the province's place in Canada or the federal mechanisms through which that place has been established and protected.

The fifth change in political dynamics has come through increased continental integration with the United States, a change marked by the 1988 Free Trade Agreement (FTA), the expansion of the FTA into the North American Free Trade Agreement (NAFTA) in 1992, and the dramatic increase in Canadian-American trade that has occurred over the last decade. On any measure, the Canadian culture, economy and society are more tightly integrated with the United States than was the case in 1949. And, with new continental security preoccupations in the United States, integration is more likely to wax than it is to wane in the years ahead. The growth of north-south trade has greatly outstripped the growth of inter-provincial trade in every region of the country, thus simultaneously weakening the economic “ties that bind” and strengthening the gravitational pull of the American economy. To date, however, continental integration has been the source of limited strain on the Canadian federal system per se, and few if any changes in the character of Canadian federalism can be traced directly to continental integration. The threat is more a potential one as growing north-south trade diminishes the relative importance of the east-west economic union, and as continental integration inevitably challenges Canadian public policies relating to regional economic development and social program delivery.

In summary, the Canadian political environment underwent huge change in the decades following Newfoundland's decision to enter Confederation. National unity issues came dramatically to the fore, regional conflict escalated, the ability of the national party system to knit the country together was thrown into question, Aboriginal peoples moved from the margins to the centre of national political life, and Canadian governments turned to address the growing reality if not necessarily the ideal of continental integration. The political change was so extensive, in many ways so profound, that the nature of Canadian federalism was inevitably affected. It is to the nature of that impact that we now turn.

# Changes to the Constitutional Framework of the Canadian Federal State

The foundations of any federal state are to be found in its constitutional framework and the principles embedded therein. In the years following Newfoundland's entry into Confederation, the nationalist movement in Quebec placed the country's entire constitutional framework on the table: the division of powers, the equality of provinces versus a special constitutional status for Quebec, the amending formula, and federal institutions including the Supreme Court and Senate were all subjected to intense national debate. Yet, when the dust finally settled after innumerable conferences and reports, after the Constitution Act of 1982, the failures of the Meech Lake and Charlottetown Accords, and with the defeat of the Quebec referendum in 1995, not all that much had changed with respect to the basic constitutional framework of the Canadian federal state. True, the constitution had been patriated and a Canadian amending formula had been put into place, one that respected the formal equality of the provinces and denied a special role for Quebec. However, the constitutional division of powers was virtually untouched, and the Senate and Supreme Court were unaltered, as was Quebec's formal place within Confederation. By far the biggest change came with the introduction of the Charter of Rights and Freedoms, something that had never been part of the constitutional reform agenda pursued by nationalists in Quebec. It was the Charter, moreover, that captured important changes to the federal spirit in Canada.

How, then, does Newfoundland and Labrador fare in this new if not fundamentally transformed constitutional order? Although this is a difficult question to answer in any categorical fashion, my assessment is that the province's "place in Canada" has been strengthened:

- the new constitutional order reinforces rather than erodes the constitutional equality of the provinces, something of particular benefit for relatively small provinces.
- the principle of equalization and the need to address regional disparities have been embedded in section 36 the 1982 Constitution Act.
- the new amending formula has not posed a serious obstacle to bilateral constitutional changes that Newfoundland has pursued with respect to public schools and the name of the province.
- there has been no formal decentralization, and therefore no reduction in the federal government's program capacity.
- the Charter and the larger Constitution Act of which the Charter is a part give formal expression to a spirit of Canadian citizenship that recognizes the equality of citizens across the land. This recognition extends far beyond the equalization provision in section 36 of the Act – promoting equal opportunities for the well-being of Canadians – to the core equality provisions of the Charter itself. .

### **Constitution Act, 1982, Part III:**

36. (1) Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the Government of Canada and the provincial governments, are committed to (a) promoting equal opportunities for the well-being of Canadians; (b) furthering economic development to reduce disparity in opportunities; and (c) providing essential public services of reasonable quality to all Canadians. (2) Parliament and the Government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

I would argue that the 1982 Constitution Act, including the Charter, has had an impact on federal values that will serve Newfoundland and Labrador well in the years to come. It promotes a pan-Canadian vision of rights that provides a potent weapon for relatively have-not provinces in the design of federal programs. While the practical implications of section 36 have not been extensively tested in the courts, the fact that equalization payments and regional economic development are explicitly embedded in the value structure of Canadian federalism is of great importance in its own right.

The Charter specifically has had other effects that should work to the advantage of Newfoundlanders. By enhancing the role of the judiciary, and particularly the role of the Supreme Court, in the design and implementation of public policies, the Charter has enhanced the role of all national institutions in Canadian political life. If one were to argue, as I would, that the capacity of Ottawa to act on the spirit of section 36 would be weakened by *de jure* or *de facto* decentralization, then the Charter's role in bolstering the centrality of national institutions is important to note. In addition, the Charter promotes a non-territorial predisposition towards Canadian political life, one that emphasizes the shared rights and values of Canadians *regardless of where they happen to live*. In a paradoxical sense, the growing profile of non-territorial politics strengthens the claim Newfoundlanders are able to make on the national government, a claim for equal treatment within the framework of Canadian public policy. The admittedly contentious assumption here, and one to which I will return shortly, is that Newfoundland and Labrador would not be well served by greater decentralization and a weakened national government, and thus that the centralizing tendencies of the Charter work to the advantage of provincial residents.

Newfoundland and Labrador's position on the new, post-1949 constitutional landscape reflects a more general paradox. For roughly 30 years, beginning with the Quiet Revolution, Canadians and their governments wrestled with defining Quebec's place in Canada. True, other provinces and other groups brought their concerns and values to the constitutional table, as Newfoundlanders did with vigor, but the table was only there because of the need to answer that most basic question: what does Quebec want? In the final analysis, however, the new constitutional framework captures the constitutional visions of Atlantic Canada (section 36), Aboriginal peoples (sections 25 and 35), francophones outside Quebec (sections 16 through 23), western Canadians (the amending formula), multicultural communities (section 27), and

English Canadians at large (the Charter in its entirety) far better than it captures the values and aspirations expressed across the nationalist spectrum in Quebec.

I would conclude, therefore, that the people and province of Newfoundland and Labrador were well-served by a constitutional process that was not of their making and over which they had limited control. More generally, to the extent that Canada's constitutional framework has evolved since 1949, it has evolved in a direction that protects the place of Newfoundland and Labrador within Canada.

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# Changes to the Institutional Framework of the Canadian Federal State

The institutional framework of the Canadian federal state – Parliament, the Supreme court, the maze of intergovernmental relations – was subjected to an extensive critique throughout the constitutional debate on Quebec’s place in Canada. Western Canadians, backed at times by the Atlantic premiers, championed Senate reform while Quebec sought changes to the appointment procedures for the Supreme Court. House of Commons reform was contemplated, in part to address regional imbalance in the national party system and in part to offset potential changes in the Senate. Intergovernmental relations were also on the table as Canadians contemplated changes to Quebec’s place in Canada, and to the Senate and House. In short, the entire institutional framework was up for grabs from the mid-1960s to the mid-1990s.

In the end, however, very little changed. The composition, rules and procedures of the House of Commons were virtually untouched. Party discipline, Cabinet secrecy and Prime Ministerial control have if anything strengthened, and the principle of equality of representation within the House has been further eroded. Although the Senate was the most common target for reform, it too has been unchanged except for the adoption in the 1960s of compulsory retirement for Senators at age 75 and a diminished capacity to block its own constitutional reform. The Senate remains un-elected, unequal and ineffective. The composition of and appointment procedures for the Supreme Court are also unchanged despite the fact that the Court’s place in the Canadian political universe has been greatly enhanced by the Charter of Rights and Freedoms. The electoral system for the House remains untouched in its basic principles and operations. In short, nearly five decades of institutional reform debate have produced little in the way of reform. Certainly the institutional reform agenda pushed so vigorously by western Canadians has come to naught. A great deal of sound and fury has, in the final analysis, ‘signified nothing.’ Canada remains a deeply conservative country when it comes to the institutional organization of political life.

But what has this lack of reform meant for the place of Newfoundland and Labrador in Canada? Has the province been the victim or beneficiary of the failure of all comers to dislodge the institutional status quo? A firm answer is difficult because we are dealing unavoidably with hypotheticals. For instance, would Newfoundland and Labrador be better served by the Triple E Senate – elected, equal and effective – promoted so vigorously by Alberta governments in the past? My hunch is that the province would indeed benefit from Senate reform, and therefore has been hurt by our national failure in this respect. It is interesting to note, for example, that a reformed Senate based on the principle of equal provincial representation would convey far more benefits on Atlantic Canada than it would on the West. In the former case, less than eight per cent of the national population would control close to 40 per cent of the Senate seats, whereas in the latter case close to 30 per cent of the national population would control close to 40 percent of the seats. Although the actual public policy impact of this regional distribution would depend on a host of other considerations, including the effectiveness of an elected Senate, there is no question that any move in the direction of Senate reform is likely to convey more benefits on Atlantic Canada than it would on the West. Alberta, with 9.9 per cent of the

national population in 2001, would carry about the same weight in a Triple E Senate as it currently does in the House of Commons.

Even if we envision a reformed Senate based on a representational formula other than strict provincial equality, reform would still give disproportionate weight to small provinces such as Newfoundland and Labrador. Reform to make the Senate elected without such a representational bias in seats towards smaller provinces would make no sense for it would reinforce rather than offset the electoral dominance of Ontario and Quebec in the House of Commons.

Yet, while it is relatively easy to conjure up models of a reformed Senate that would convey significant benefits for Atlantic Canada in general, and for Newfoundland and Labrador in particular, it is by no means clear that the institutional status quo has been a problem for Newfoundland and Labrador, that it has been a serious obstacle to the realization of the province's potential and aspirations. A compelling argument has been made in western Canada that the existing institutional framework – a Senate poorly designed for the 19<sup>th</sup> century much less the 21<sup>st</sup>, rigid party discipline, the partisan polarization of the committee system, an electoral system that intensifies rather than moderates regional cleavages – works against regional interests and aspirations. Indeed, this argument has become a matter of faith in the West, beyond the need for empirical verification just as one does not have to set out each morning to prove, once again, that the earth is round. However, a parallel argument is more difficult to make for Newfoundland and Labrador. And, I suspect, it would be more difficult to draw the linkages between the economic and demographic challenges facing the province, on the one hand, and the nature of parliamentary institutions, on the other.

Things might be better in terms of institutional design, but they have not been bad. Newfoundlanders have not been particularly or especially disadvantaged by institutional design per se. This is not to say that Newfoundlanders have been consistently well served by national decision-making, an outcome that would be unlikely in any event given the province's electoral clout. It is simply to question whether institutional design lies at the root of the problem, as it is assumed to do within the populist creed in western Canada.

None of this is to suggest, of course, that Newfoundlanders do not share a *democratic* reform agenda with other Canadians. For example, the extreme concentration of power in the hands of the Prime Minister, an non-elected and unaccountable Senate, and an electoral system that consistently fails to reflect citizen preferences may cause as much democratic concern in St. John's as they do in Calgary. There is, however, a critically important difference. In the West, a populist critique of the existing institutional framework is tightly linked to, indeed in large part has been generated by, a regional critique. The western concern, in other words, is not just with the democratic impairment of Canadian political institutions, but also with the adverse *regional* effects of that impairment. The West, it is argued, is particularly disadvantaged by the institutional framework. In Newfoundland and Labrador, the second part of that equation is largely absent, and therefore the democratic critique alone carries less weight. Newfoundlanders may be hurt *as Canadians* by the democratic impairment of national institutions, but it is less clear that they are hurt *as Newfoundlanders*.

Thus, as the Canadian institutional reform debate died without so much as a whimper, much less a bang, it is difficult to argue that Newfoundland and Labrador has been hurt as a consequence. Indeed, when we turn to the policy mix that the existing institutional framework has generated over the past 50 years, a more appropriate conclusion may well be that the

western Canadian crusade for institutional reform should hold little appeal for provincial residents. If, to use the old cliché, the proof is in the pudding, then the pudding cooked up by the existing institutional structure has not been at all bad.

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# Programmatic Federalism

Although changes in the constitutional and institutional frameworks of the Canadian federal state over the past 50 years have been relatively modest, or at least modest when placed against the concerted push for reform coming from both Quebec and the West, the changes in the nature of federal programming have been massive. Here I refer not only to programs that the federal government undertakes within its own legislative sphere of jurisdiction but also, and more importantly for the present analysis, to programs that the federal government undertakes in conjunction with provincial and territorial governments, including the entire gambit of federal-provincial relations. The changes in these respects have been almost revolutionary in their scope; the programmatic landscape of today bears only a passing resemblance to that of 1949. The changes, moreover, have generally strengthened Newfoundland and Labrador's "place in Canada."

Part of the change can be traced to the sheer increase since 1949 in the scope of government. When Newfoundland joined Confederation, for example, there was no publicly funded Medicare system, no Canada Pension Plan, Employment Insurance program, national firearms registration, federal investment in post-secondary education, Heritage Canada, or public support for athletics. Thus the federal system has had to accommodate both national and provincial governments that are doing much more than they did at the end of the Second World War. Not surprisingly, as the federal and provincial governments have expanded in scope, they have tended to become more and more entangled with one another. As a consequence, intergovernmental relations have become increasingly characteristic of and integral to the Canadian federal system.

Against this general backdrop, three changes stand out as being particularly important for the present analysis:

- the introduction of equalization payments from the federal government to provincial governments falling below the national average with respect to revenue generating capacity;
- the adoption of regional economic development as a policy objective for the federal government; and,
- the expanded use of federal spending power in fields of provincial legislative jurisdiction.

These changes, of course, were not tailored for Newfoundland alone, and their impact has been national. There is no question, however, that their specific impact on Newfoundland and Labrador has been profound.

A formal system of equalization was first introduced in 1950s, and since then has been expanded with respect to the magnitude of fiscal transfers and the range of revenues taken into account by the equalization formula. Although all provinces with the exception of Ontario and Alberta have been recipients of equalization payments, these payments have constituted a particularly important source of revenue for the Government of Newfoundland and Labrador, to the point where it is difficult to imagine where the province might have been over the past 40 years had they not been in place. However, the equalization system provides far more

than a source of badly needed funds. It also represents a profound statement of federal values in Canada, one that declares that citizens are entitled to roughly the same level of public services paid for by the same level of taxes *regardless of where they might choose to live*. Although this was not a defining value of Canadian federalism at the time that Newfoundland joined Confederation, it has certainly become one. It is, moreover, a value that is virtually unchallenged. Even in Alberta, where provincial residents tend to view federal spending as a continual net drain on the provincial economy and taxpayers, equalization is seldom contested. Like publicly funded healthcare, it is seen as a defining Canadian value. In this context, the constitutional entrenchment of equalization in section 36 of the 1982 Constitution Act makes sense.

A related post-1949 development was the incorporation of regional economic development into the policy frameworks of national governments, both Liberal and Progressive Conservative. The assumption that the national government should play an active role in encouraging regional economic development led eventually to ACOA, and to significant financial transfers into Atlantic Canada. While other regions have also benefited to a degree from regional economic development programs, and here Quebec stands out, there is little question that Atlantic Canada in general, and Newfoundland in particular, have been beneficiaries. (Regional development expenditures in central Canada tend to be relabeled as *national* development priorities, a twist in phrase that does not preempt relatively massive expenditures.) It is worth noting, however, that regional economic development programs, despite being referenced in section 36 of the 1982 Constitution Act, are less thoroughly embedded in federal values than are equalization payments. They are contested from both inside and outside Atlantic Canada in terms of their effectiveness, a matter that cannot be pursued here. They are also challenged on ideological grounds by the Canadian Alliance, and are potentially open to challenge through international and continental trade agreements. Such programs should thus be seen as a more fragile gain than the principle of equalization, which is now firmly entrenched in both the constitutional order and federal values across the country. Indeed, this fragility is demonstrated by the decline in regional development spending since the early 1980s.

The third change, and quite likely the most important, has been the increased use of federal spending power in provincial fields of jurisdiction. The general expansion of the state in the wake of citizen expectations at the end of the Second World War, an expansion that rode the crest of a booming post-war economy, was led by Ottawa's funding involvement in healthcare, post-secondary education, and social assistance. Indeed, in the 1960s and early 1970s, Ottawa covered 50 per cent of provincial expenditures in these core areas of provincial jurisdiction. There is no question that without this greatly expanded federal role, the prosperity and security of Newfoundland residents would be much more exposed.

Federal intervention not only provided a source of revenue that would have been very difficult for have-not provinces to extract from their provincial tax base. Federal funding also frequently took into account regional differences in prosperity, and thus Newfoundland and Labrador benefited in excess to what might have been the case had federal spending been based on per capita criteria alone. While the use of the federal *spending power* has been contentious in Quebec, and has been questioned, although less extensively, in the West, it has worked well in Atlantic Canada.

Thus the expansion of the federal government over the past half century must be seen as one that has strengthened Newfoundland and Labrador's place in Canada, or at the very least

one that has helped provide a standard of living for provincial residents that is closer to the national average than would otherwise have been the case. This is not to say, of course, that every federal program initiative has yielded net benefits to Newfoundland and Labrador. Nor is it to deny that there have been additional things that the Government of Canada should have done, but chose not to do. Furthermore, Government of Canada initiatives under its spending power have distorted provincial spending and program priorities as both have to adjust to federal rather than provincial priorities, a frustration shared by provincial governments across the country. Nonetheless, when we contrast the nature of federal spending and program activity in 1949 to that in 2003, there is no doubt that Newfoundland and Labrador is better served by the current arrangements, including those of a conditional nature. Indeed, one might make the argument that all Canadians are better served. This conclusion, however, only reinforces the particular benefits that Newfoundland and Labrador has derived from a radically transformed federal programming landscape.

Before leaving the discussion of programmatic change, a brief mention should be made of the Social Union Framework Agreement (SUFA), signed in 1999 by the Government of Canada and all of the provincial and territorial governments apart from Quebec. SUFA, it should be stressed, was not a constitutional initiative or document; indeed, it was brought forward to demonstrate to (largely indifferent) Canadians that federalism could be transformed without the trauma of constitutional amendment. Nor does SUFA incorporate any institutional change, apart from further entrenching intergovernmentalism as a defining feature of Canadian political life. However, the agreement does two things of particular interest to Newfoundland and Labrador. First, it provides a mechanism for the continued and quite likely expanded role for the Government of Canada in program areas falling within provincial fields of jurisdiction; SUFA provides legitimation for the federal spending power. This means, in part, an enhanced opening for federal funding, and thus the transfer of resources from the national community to Newfoundland and Labrador. Second, SUFA establishes complex networks of intergovernmental relations that should, given the formal assumption of provincial equality, provide disproportionate influence to relatively small provinces. Thus, while the long term effects of SUFA, if any, are by no means clear, the agreement appears to strengthen the general evolutionary direction of Canadian federalism since 1949, a direction that has strengthened the place of Newfoundland and Labrador in Canada.

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# Newfoundland in the Contemporary Canadian Federal State

From the perspective of an outside observer, Confederation has been an uncontested gain for the province and people of Newfoundland and Labrador. There is also no question in my mind that over the past 50 years the Canadian federal state has evolved in a manner that strengthens rather than weakens the province's place in Canada. As stated at the outset of this report, *in broad strokes the picture is one of a new federal order that provides a better system of national governance than the one Newfoundland embraced in 1949. Although Newfoundland's relative economic position in Canada has not greatly improved, and indeed in some respects has declined, the federal system itself has evolved in a direction that generally supports the province's interests and aspirations.* The important changes have certainly not been institutional, nor for the most part have they been constitutional, although the value changes encapsulated in the Charter of Rights and Freedoms are a notable exception. The most important changes have come from programmatic developments within the Government of Canada. Here the equalization formula, regional economic development programs, and the use of the federal spending power in provincial fields of jurisdiction stand out.

However, given that the very real gains accomplished over the past 50 years have been brought about largely by broader political currents over which the people of Newfoundland have had little influence much less control, it is important to ask just how likely these gains are to persist. If, in a crude sense, the larger political process has given, could it not as easily take away? The fact that the most beneficial changes have been informal, and are thus open to challenge in a different partisan, ideological or inter-provincial environment, could be seen as a matter of concern. One could imagine, for example, a new national government that was ideologically opposed to intervention in the economy, and therefore hostile to regional economic development programs, and favoured a reduced role for the federal government in social programs. In this scenario, some of the gains over the past 50 years could be lost although the constitutional barriers that have been erected (e.g., section 36 of the 1982 Constitution Act) should deter any wholesale dismantling of those programs that have served Newfoundland and Labrador so well.

The more immediate challenge to the place of Newfoundland and Labrador in Canada may come less from partisan change in the national government than from the ongoing evolution of political dynamics within the country. Note, for example, the growing urbanization of Canada and the increased demand from municipal governments for a higher profile on the federalism landscape, indeed for some formal incorporation within federal mechanisms and institutions. This pressure is unlikely to abate in the near future, and in fact is likely to grow as cities become more tightly identified as the motors of the new, knowledge-based economy. The potential impact of this on Newfoundland and Labrador's place in Canada depends on how Ottawa decides to craft a new urban agenda. If "urban" is defined in big city terms – Toronto, Montreal, Vancouver, Calgary, Edmonton, Ottawa – then Newfoundland may be marginalized within that agenda. If, however, the urban agenda is defined in more inclusive terms, ones that at the very least cover the largest city within each of the provinces and territories, then the threat of marginalization recedes. While some might argue that a big city strategy would better

serve the Canadian economy than would an inclusive strategy, the political logic of Canadian federalism is likely to dictate the more inclusive path.

The second trend, and a much more uncertain one to forecast, is the retreat from fiscal conservatism. For whatever the reason, and surely the aftermath of 7/11 is part of the picture, Canadian governments seem less enthusiastic about the aggressive pursuit of deficit and debt elimination strategies. Coupled with this is the likelihood of increasing large fiscal surpluses for the national government in the years ahead as economic growth continues and some, albeit modest, progress is made on debt elimination. Faced with a growing imbalance between the fiscal capacity of the national government and continued financial constraints on provincial governments, Canadians are approaching an important fork in the fiscal road. One option is to finally redress the structural fiscal imbalance of Canadian federalism by restructuring the tax base to give greater capacity to provincial and perhaps even municipal governments. In short, revenues could be brought into line with constitutional responsibilities. The second option is to have Ottawa address this vertical fiscal imbalance by increased national program spending in areas of provincial (and municipal) responsibility. Here the historical odds clearly favour the second option, an expanded federal role in response to an improved budgetary situation. While one might argue that this second option is less respectful of the principles of federalism, it is also the option that best suits the interests and aspirations of Newfoundland and Labrador.

A closely related issue is the manner in which federal transfers to provincial and territorial governments are made. When the Canada Health and Social Transfer (CHST) was introduced in 1996, it appeared that the federal government was moving away from conditionality; funds were to go to the provinces in a general envelop, and the distribution of those funds was left to the discretion of provincial and territorial governments. This, I should stress, was the approach to the vertical fiscal imbalance in the Canadian federal state that is most congruent with federal principles. It is by no means clear, however, that the retreat from conditionality will continue. Conditional funding is inherently more attractive for federal politicians as it provides a better way of ensuring that the federal contribution to provincial programming is acknowledged in a visible way. In addition, the past and current Auditor Generals have been making a concerted argument that parliamentary accountability for fiscal transfers must be maintained, an argument that leads directly to conditional rather than unconditional transfers. Furthermore, the Romanow Royal Commission on healthcare reform has proposed that conditionality be restored with respect to fiscal transfers relating to healthcare; Mr. Romanow argues that provincial governments must be held accountable to Ottawa, and not just their own electorates, for federal funds spent on healthcare. More specifically, he proposes that the health component of the CHST be broken out so that the federal spending on healthcare is more visible, and so that provincial governments can be more readily held accountable.

When these arguments are taken together, it is likely that the improved financial circumstances of the federal government in the years to come will be matched with increased conditionality with respect to federal transfers to provincial and territorial governments. This is likely to be a double-edged sword for Newfoundland and Labrador. On the plus side, the return to conditionality is likely to come with more rather than less federal funding. On the minus side, it will also come with increased federal intrusion, and with a diminished capacity on the part of the provincial government to set its own programs and priorities. Whether this trade-off is appropriate will undoubtedly be hotly debated within the province.

Finally, it is worth asking whether significant challenges to the existing constitutional and institutional frameworks are on the horizon? Certainly Senate reform is still on the western Canadian agenda, but in all likelihood Newfoundland and Labrador will have been in Confederation for more than 100 years before any change might be expected on this front. Given considerable interest at the provincial level, particularly in British Columbia, there is a greater likelihood of significant change in terms of electoral reform, although even here the odds are long. It may be useful, however, to begin thinking through just what impact electoral change might have on the partisan composition of the House of Commons and thus on the programmatic predispositions of the national government. There is no question that electoral reform would have a major impact on Canadian political life, but just how that impact would ripple through to the place of Newfoundland and Labrador in Canada requires serious reflection.

There is also the possibility that political change in Quebec might reignite national debate over the nature of the federation. While the new Liberal government led by Jean Charest has displayed no interest in opening up the country's constitutional framework, its proposal for a new Council of the Federation should hold considerable interest for Newfoundland and Labrador. Such an innovation would have a direct and major impact on the character of intergovernmental relations, and with luck on the nature of federal intrusions into fields of provincial jurisdiction. The long-standing concerns of provincial governments with vertical fiscal imbalance and conditionality could well be addressed within such a body. Thus the renewed engagement in Canadian political affairs brought about by the recent change in government in Quebec is likely to encourage a national debate and eventually a forum within which Newfoundland and Labrador's discontent with the federal status quo could be addressed. In the years to come Quebec is more likely than it has been over the past 30 years to be an ally.

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## Conclusion

Since Newfoundland entered Confederation in 1949, the Canadian federal state has been substantially transformed. This transformation has touched the constitutional and institutional frameworks for Canadian federalism, and has had a dramatic impact on the activities of the Government of Canada. In general, the direction of this change has worked to the advantage of Newfoundland and Labrador. It is important to stress, however, that this favourable outcome was not the result of a case being made for provincial exceptionalism. To the contrary, Newfoundland and Labrador has benefited on the whole from broader processes of change driven by others and designed to meet national objectives rather than the specific circumstances of the province. In a sense, Newfoundland and Labrador has successfully ridden the waves of change generated by the broader national political environment.

But does this favourable assessment of Newfoundland and Labrador's position on the evolving federalism landscape mean that a case cannot be made for "better terms"? I would argue, to the contrary, that a case can be made, that there is still a need to examine the details of federal programming and its impact on the province, and that the province's active engagement in any emergent democratic reform agenda should be encouraged. Conditionality, vertical fiscal imbalance and spending power intrusions remain concerns. To say, therefore, that Newfoundland and Labrador has done well is not to conclude that existing political arrangements are beyond improvement. Indeed, I would argue that Newfoundland and Labrador's success to date comes from general changes in the Canadian political environment, which strengthens rather than weakens any argument for better terms. What is being sought is not exceptional treatment, but rather treatment that is fully consistent with national values and priorities as these have evolved since 1949.

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## **About the Author**

Dr. Roger Gibbins was born in Prince George, British Columbia, and received his university training at UBC and Stanford University, California. He joined the University of Calgary in 1973, where he served as department head from 1987 to 1996 and is currently a Faculty Professor of Political Science. Dr. Gibbins was the English-language co-editor of the Canadian Journal of Political Science from 1990 to 1993, and has published 20 books and well over 100 articles and book chapters, most dealing with western Canadian themes and issues. In 1998, Dr. Gibbins joined the Canada West Foundation, a non-partisan public policy research group based in Calgary, as its President and CEO. Dr. Gibbins was elected as a Fellow of the Royal Society of Canada in 1998, and served as President of the Canadian Political Science Association from 1999 to 2000.