EXPANDING THE PARTNERSHIP?: STATE AND PROVINCES IN U.S.-CANADA RELATIONS

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I. INTRODUCTION

For aspiring junior associates in most law firms, one of the more important issues they will confront is whether they will ever be made partner. Indeed, a Google search of "how to make partner in a law firm" reveals more than 9.5 million hits full of advice and information on the merits and pitfalls of becoming partner. The challenges of becoming partner are multiple, and the measuring sticks used to evaluate potential partners are different for every firm; the quality of their work, how they relate to superiors and fellow staff, how they entertain clients, their choice of outside activities, and even the literature they read are sometimes considered. Some even refer to the "Cleveland Airport Rule" whereby potential partners are evaluated based upon whether you would want to spend the night stranded in the Cleveland Airport with them (Bloomberg Businessweek, February 17, 2010).

For the first seven to nine years of an associate's life in a law firm, they and their work are constantly being evaluated for its potential to translate into equity ownership in the firm. For many associates, it is a steep hill to climb. Only a small percentage of associates hired by most firms are still with the firm a decade later, and an even smaller select group actually make partner. For a select few, partnership offers prestige, power, and influence on the direction of the firm. Some firms have moved toward a two-tiered form of partnership (junior partners) in which some associates are offered non-equity partnership—salaried employees rather than full equity shareholders. Some associates simply leave the firm upon reflection about their prospects for partnership, while others are quietly asked to seek alternative employment.

The point is that equity partnership in law involves an assessment of one's broad contribution to the success of the firm—and with it considerable responsibility. As the plethora of factors considered before being made partner suggests, the size and importance of an associate's "book of clients" is a necessary, but not sufficient, factor in being made partner. One's success as an associate does not guarantee meaningful contribution as partner. Similarly, an associate's contribution to the firm might be valuable, but only as a junior partner, minus the prestige, power and influence on the firm's direction enjoyed by equity partners.

This paper asks a simple question: Are U.S. states and Canadian provinces in line to make equity-partner, or will they be asked to leave the firm? The analogy of the law firm is obviously complicated by the evolution of both the U.S.-Canada partnership

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itself and the differing trajectories of federalism in each country. Much as the hiring of associate lawyers precedes partnership, the Westphalian state predates the rise of either brand of federalism. As a legal partnership contemplates adapting to a changing legal environment by bringing in new associates who can contribute to the partnership, the Canadian and U.S. versions of the Westphalian state have evolved to incorporate federalism as part of the creative dynamism of each country's contribution to bilateral partnership. In assessing whether to ask states and provinces to become partners or leave the firm, more than just the size of the business they bring in, their importance within each federation, or their eagerness to be involved needs to be taken into consideration.

This examination of the sub-federal contribution to partnership begins in part two with a brief exploration of what "partnership" actually is in the context of U.S.-Canada relations, followed in part three by an overview of many of the changes to the international system that have contributed to the growth in sub-federal influence on the U.S.-Canada partnership. Parts four and five will attempt to sketch, in necessarily broad strokes, the relative trajectories of federalism as they have evolved in both countries as they have adapted to internal and external challenges fueling both limitations and claims on equity-partnership. And finally, part six will try to assess how the growth of associates in the U.S.-Canada partnership has helped or hindered the success of the partnership itself.

It is the broad conclusion of this paper that sub-federal activity has been broadly useful for the U.S.-Canada partnership, but full equity-partnership is not yet in the offing. This is particularly true for Canada's provinces that should probably be offered junior, non-equity partnerships more commensurate with their contribution to the relationship.

II. WHAT IS "PARTNERSHIP?"

The analogy of a legal or professional partnership as applied to relations between states might seem far-fetched. How can we possibly equate the lowly legal structures of profit-making business partnerships to the high-politics of international relations? To be clear, they are not the same. Moreover, there is a large and growing body of literature focused on "multi-level," "network," "intergovernmental," or "transgovernmental" governance that highlights the numerous levels at which the interdependence of regionalism

functions (Hooghe and Marks 2003; Hettne and Soderbaum 2000; Mittelman 1996; Marks et. al. 1996; Slaughter 2000, 2004). This work has, in turn, dovetailed with scholarship in international political economy looking at the growing importance of non-state actors in relation to the "perforated state" and hierarchical sovereignty (See Anderson 2012a). This essay does not deny the growing importance of a range of non-state actors in international relations or in U.S.-Canada relations in particular. Yet the analogy of partnership in a law firm is useful for thinking about the role of sub-federal governments in U.S.-Canada relations. This is because unlike private non-state actors, such as firms, sub-federal governments are another layer of formal governance vying for direct influence on international relations. Historically this has been the exclusive prerogative of the nation state.

A related objection to using the analogy of partnership in a law firm to describe developments in U.S.-Canada relations stems from doubts about which "partnership" sub-federal governments are actually trying to become a part of. In other words, if states and provinces "want in," where exactly are they hoping to insert themselves? Sub-federal activity is frequently about the multidimensionality of federalism and not about a genuine desire for full equity partnership in U.S.-Canada relations. Much as the partners to a law firm represent their clients within the structure of the partnership, states and provinces are similarly laying claim to representation for their "clients" in the context of bilateral relations, in this case stakeholders within their jurisdictions and areas of constitutional authority. Yet the real target of sub-federal agitation may be the established bilateral partners (Washington and Ottawa) rather than equity partnership itself.

The similarities and differences in the character of "partnership" in each context highlight a number of challenges to U.S.-Canada relations brought about by each country's unique and evolving federal structure. At its most basic, a partnership entails a kind of collective intentionality among individuals that increases the likelihood of achieving a set of shared goals or interests by amplifying their reach. In the case of law firms, partnership requires a large, lucrative client list that augments the firm's prestige and financial prospects. In most firms, degrees of partnership denote the extent of that contribution. For example, full equity partner status entails an ownership stake in the firm and is entitled to a proportion of the

firm's overall profits, whereas a junior, or salaried, partner may not yet be contributing enough to the firm's direction for full equity status.

For U.S. states and Canadian provinces, partnership also entails a contribution to the collective intentionality of the nation and to the U.S.-Canada relationship writ large. Yet it might also mean something else.

Commercial Partnership

There have been several forms of commercial partnership historically, but the most pervasive modern variant of partnership is the "limited liability partnership," or LLP. Unlike older forms of partnership wherein partners had full liability for the actions of others, a 1991 Texas law began a global trend toward limiting the collective liability of a firm's partners to lawsuits flowing from the actions of individual partners (Hamilton 1995; Fortney 1998). The goal, in short, was to limit the personal liability of a partner for the errors, omissions, incompetence, or negligence of the partnership's employees or other agents. Hence, while the actions of any one partner or group of employees might have financial ramifications for the viability of the firm, the legal liability for those actions would be borne by the individuals responsible, and thus be unlikely to destroy the firm. Limited partnerships such as this protect the assets of all partners by limiting their legal and financial exposure to the actions of individuals. Partnerships of all varieties are inherently fraught with the basic collective action problems associated with group decision making; for example, free-rider problems, moral hazard (shirking), or adverse selection. If an adventuresome partner decides to engage in risky, unethical, or illegal practices, the impact on the long-term goals or viability of the firm will be minimal. If the offending partner's contribution to the collective objectives of the partnership declines, if negligent behavior jeopardizes that individual contribution, or if the partner's actions are detrimental to the firm's goals, they can simply be asked to leave the partnership.

The argument below is that U.S. states and Canadian provinces have many characteristics of partners in a law firm. Each subfederal entity has the potential to contribute greatly to the collective intentionality of their respective partners—in this case, Washington and Ottawa. Like a partner in a law firm, states and provinces pursue the interests of their individual clients—voters, firms, and other

stakeholders in their jurisdictions. Yet, unlike the legal profession, there is no limited liability form of partnership in U.S.-Canada relations under which a junior partner can be asked to leave the firm; a state or province cannot be asked to leave. Moreover, there is no clear way to limit the nation's liability (most often taking the form of political liability) for the actions of relatively autonomous states and provinces in the same fashion as individual partners in a firm are immunized from the ill-advised actions of those around them.

The Partnership of States and Provinces?

But what of "partnership" in international relations, and in U.S.-Canada relations in particular? How far can we take the analogy of partnership in a law firm as a template for partnership in U.S.-Canada relations?

When Charles Doran penned *Forgotten Partnership* some 25 years ago, his was the story of decline in a formerly robust bilateral relationship anchored in Washington and Ottawa. Scholars of bilateral relations have long tried to sort out the dimensions of the so-called "special relationship" between the two countries (Barry 1980; Cuff and Granatstein 1977, 151-163; Doran 1984, 21-25, 74-84; Mahant and Mount 1999, 14). However, there is also a growing consensus about the breakdown of both the "special relationship" and the diplomatic culture that sustained it in the early postwar years (Bow 1999, 13-16, 163-180). Interestingly, at the time Doran was completing his manuscript in 1982, a number of would-be partners in the U.S.-Canada relationship were poised to take advantage of that decline, possibly thinking seriously about their chances of assuming formal, equity-level partnership: U.S. states and Canadian provinces. While Doran's analysis of the character of U.S.-Canada relations remains an intellectual standard in the field, he did not attempt a formal definition of "partnership" itself until the last chapter of his book. For Doran, partnership entailed three distinct qualities, not unlike those confronted by newly minted attorneys: "1) Partnership must convey a sense of purpose, and the individual partners must each show a degree of commitment to that purpose. 2) Partnership arises because both partners recognize that they are subject to intervulnerability and this awareness binds them together. 3) Limits govern partnership and each partner accepts these limits because without them the association would collapse" (Doran 1984, 260-261).

From Doran's definition, the differences with partnerships in law firms become stark. Few would dispute that in any partnership, law firm or otherwise, a shared sense of, and commitment to, a broad purpose is essential for the partnership's survival. In a law firm, that shared sense of purpose and commitment is rooted in both tangibles, such as profitability or client base, and intangibles, such as "corporate culture." The shared sense of purpose and commitment among states, provinces, and their respective national governments arguably includes such tangibles as economic and security relations, or environmental management, and intangibles such as a shared diplomatic culture. Yet as this paper argues below, the evolution of federalism in the United States and Canada has periodically resulted in behavior from states and provinces that could be interpreted as juxtaposed to the broad sense of purpose and commitment to the health of the partnership. In a legal partnership, that shared sense of commitment is derived, in part, from a similarly shared sense of intervulnerability; the partners recognize they are stronger and better able to achieve their goals as a unified whole. As the following sections argue, U.S. states, but especially Canadian provinces, have not always behaved in this manner. In fact, the decentralized nature of federalism in Canada has resulted in a degree of autonomy for the provinces that has periodically made the shared sense of purpose and commitment to partnership elusive. Finally, Doran's definition suggests there are limitations in any partnership, formal or informal, that both govern and sustain the partnership. In law firms, limitations are everywhere governing the conduct of the partners, including the idea of limited liability. However, as this essay also argues, there is no limited liability in "partnership" for U.S.-Canada relations. Moreover, many of the limitations that used to govern bilateral "partnership" have been overturned, starting with exogenous changes to the role of the state in international relations itself. It is those changes to which we now turn.

III. GLOBALIZATION AND THE RISE OF SUB-FEDERAL INTERNATIONALISM

The Treaty of Westphalia that formally ended the Thirty Years War in 1648 is regularly cited as marking the onset of the modern inter-state system of international relations. Scholarly debate over this point, and the nature of the sovereign nation-state that emerged

then continues today (Burgess 2006, 77-80). However, the debate over the role of the nation-state in international relations has become particularly intense over the past several decades as scholars have explored the range of influences upon the international system beyond the nation-state itself. The end of the Cold War, marked by the dissolution of the Soviet Union in 1991, seemingly marked the decline of inter-state conflict, the rising prominence of institutions, and the ascendancy of market capitalism and democracy as dominant forms of global governance. Attendant with these impulses were competing pressures such as intra-state and regional conflict, resistance to the pressures of market capitalism, the rise of non-state actors, and the broad challenges these presented to the stability of the Westphalian state (Kahler and Lake 2004, 409-414; Jackson 2003, 786-789; Wolf 2004, 249-277).As public officials struggled with these challenges, scholars coined new sets of terminology in an effort to describe and understand the shifting sands of the post-Cold War international architecture and their effects; terminology like "intermestic"(Manning 1977, 306-324), "glocalization" (Robertson 1992; Robertson 1995, 25-44), "fragmegration" (Rosenau 1997), or "global governance" thought to have been coined by the World Bank in the late 1980s (Burgess 2006, 256). Even sovereignty, the foundation of the Westphalian nation-state, has been in the midst of considerable scholarly and policy-oriented reconsideration (Lake 2003; Krasner 1999).

Some, like William Held, argue that we are in the midst of a fundamental re-think of democratic governance:

> As fundamental processes of governance escape the categories of the nation state, the traditional national resolutions of the key questions of democratic theory and practice are open to doubt.... We are compelled to recognize that we live in a complex interconnected world where the extent, intensity, and impact of issues (economic, political or environmental) raise questions about where those issues are most appropriately addressed (Held 1999, 105-106).

Yet experiments with federalism have been responding to shifting sands of governance at least since the 13th century and experiments with loose, confederal associations for collective defense

and security in Europe (Burgess 2006, 76). Burgess also reminds us that "federalism is a multidimensional phenomenon and seeks in federation the constitutional and institutional practices that protect, promote and preserve the assortment of interests, identities and beliefs that naturally inhere in all societies" (Burgess 2006, 265). Moreover, in the context of globalization, federal-confederal systems of governance have significant utility in creating the political space necessary to respond to the changing governance pressures of diverse societies.

Federalism may, in the abstract, have the kind of flexibility necessary for dealing with the pressures of globalization. Yet those pressures have nevertheless generated the seeds of conflict within federal systems when they have come into conflict with the foreign policy responsibilities of the traditional Westphalian state. One of the more striking examples of globalization generating a kind of double-movement of governance upward beyond the nation state and downward within the state is in the area of international trade.

In the postwar period, the instutionalization of international trade, facilitated by the 1947 General Agreement on Tariffs and Trade (GATT) and the steady liberalization of tariff barriers by national governments, greatly stimulated the integration and interdependence of markets. Successive rounds of multilateral tariff negotiations dramatically reduced the incidence of tariffs affecting international trade, so much so that tariffs ceased to be serious impediments to the flow of goods and services by the time of the Tokyo Round (1973-1979).

However, the success of the previous six rounds of GATT negotiations was not so easily replicated in the Tokyo Round. Reduced impediments to global flows of goods, services and capital were fostering increasing degrees of economic openness and interdependence among states. Liberalization, and the interdependence among states that it fostered, was reducing the cost of goods and services for consumers, but also facilitating the introduction of foreign competition to many domestic markets.

Moreover, as impediments to commercial activity levied at international borders fell, the search for ways to handle so-called behind the border, or non-tariff, measures influencing commercial activity took on a new salience. Addressing non-tariff barriers in trade negotiations has often been compared to the many problems

associated with draining a swamp; as the water recedes stumps and snags are revealed. Added to the standard distributional consequences of liberalizing markets at all, non-tariff barriers are like the stumps and snags of international trade since they include not only subsidies and quotas with an direct impact on trade, but a range of others such as safety, health or pollution standards, or regional development subsidies, whose purpose and orientation are primarily domestic but which nevertheless have an impact abroad (Pastor 1980, 119). Given that many of these policies are intimately tied to domestic policies with all their social, cultural, political, environmental, and economic implications, these subjects have become, and will remain, extremely contentious issues in future economic relations.

Perhaps not surprisingly, whereas the first five rounds of GATT negotiations were typically completed in just over six months' time, the progressively difficult non-tariff issues being handled were drawing out the negotiations. The Tokyo Round lasted for 74 months, the Uruguay Round (1986-1994) 123 months, and the Doha Round (2001-present) remains hopelessly deadlocked over domestic agriculture policies, among other things.

According to Burgess, the concept of the "nation-state" is highly contestable since the nation-state system as it evolved in Europe in the sixteenth and seventeenth centuries was a system of states inside each of which were many nations (Burgess 2006, 257). Further, the consolidation of the nation-state after the French Revolution in 1789 also meant that modern democratic theory and practice were constructed upon Westphalian foundations (Ibid.). Globalization—however defined and from whatever point we date it—is having contradictory effects on both democratic governance and the foundations of the Westphalian state, some of which can be seen in the multilateral GATT negotiations. On the one hand, the nation state is confronting a range of forces, such as trade liberalization, that are encouraging the integration of economies and polities. Yet, those same forces are also establishing new economic and political connections that transcend traditional Westphalian borders, reorienting sovereignty itself and fragmenting the governance structures of the nation-state (Anderson and Sands 2010; Lake 2003; Rosenau 2000; Rodrik 2000).

Broadly speaking, the challenges confronting the Westphalian state arising from globalization are reordering governance patterns nearly everywhere we look. Even in those states that remain rela-

tively closed, but particularly those which are most open, decision-making authority and resources are being pooled, power is being reallocated "upwards beyond the state and downwards within it" (Burgess 2006, 260) by the integration and fragmentation of governance brought about by globalization. It is a set of phenomena that are being felt within the "partnership" of U.S.-Canada relations as governance begins to transcend the corridors of Ottawa and Washington while also devolving to more localized governance. Yet as the next two sections will argue, the evolution of the relocation of power is manifesting itself differently within each federation. The argument is that whereas Canada began as a highly centralized federation with power devolving over time to its provinces, the United States in contrast began as a highly decentralized state with power gradually centralizing itself within the federal government. More broadly, it is this constitutional evolution within each federal system that is altering the dynamics of "partnership."

IV. THE PROVINCES: AMBITIOUS ASSOCIATES

In many ways, the broad outlines of Canadian political and economic development can be cast as a series of reactions to the temptations of "partnership" with the United States. Indeed, Canada has evolved as a federation in pursuit of somewhat contradictory goals: national unity and provincial autonomy. It is impossible to summarize the academic analysis of federalism in Canada, in part because it has become a large cottage industry with new volumes on the subject published every year.[1] In its original design, Canada was conceived as a highly centralized, Westminster-style democracy set somewhat precariously upon a federal structure in which the provinces would be given considerable policy authority and responsibility (Burgess 2006, 84-85). Yet, early interpretations of the British North America Act 1867 by the British Privy Council have contributed to Canada becoming one of the world's most decentralized states (Cairns 1971; Cody 1977). According to some scholars, successive judicial rulings eviscerated two of the most powerful centralizing clauses in the BNA Act; namely the "peace, order, and good government" (Section 91) and "regulation of trade and commerce" (Section 91 (2)) clauses (Cairns 1971; see also Kukucha 2008, 44-45).

The tensions inherent to Canadian federalism have ebbed and flowed, but in recent decades entailed the significant devolution of

authority in many policy areas to the provinces (Savoie 1992; see also Brown 2002; Lindquist 2008). The devolved nature of Canada's federation is, in part, a byproduct of the international forces noted above (Kukucha 2008, 12-42). According to Burgess, traditional treatments of the rationale for forming federations include defense, security, and commerce (Burgess 2006, 77; Riker 1964). Indeed, the common textbook treatment of Canada's federal origins depicts Canada's early leadership as having been mindful of the states' rights origins of the U.S. Civil War (Jackson and Jackson 1994).

Burgess (77) and others have pointed out, the Constitution Act 1867 and Canada's federal character had far more nuanced, path dependent origins that included the imperatives of knitting together a bilingual culture and thousands of miles of largely unsettled territory. However, Canada's small market, tremendous resource wealth, and enormous geographical area have been critical to the nation's economic and political development. Canada has historically managed its economy in the service of political unity behind a range of protectionist, sometimes nationalist, economic policies dating back to the late 19th century and the National Policy (Clarkson 2002, 207-208; Norrie et al. 2002; Norrie 1974). The National Policy combined protective tariff barriers with the construction of the Canadian Pacific Railway and preferential freight rates to establish an east-west economy that would foster western settlement and the extraction of natural resources for processing in central Canada. Tariff rates as set by Ottawa were traditionally set to discourage the importation of value-added manufactures that would, in turn, encourage inflows of investment capital for plant construction to serve the Canadian market (Barnett 1979). These policies, aided by the rapid expansion of production capacity brought on by two world wars, helped Canada become one of the world's leading industrial powers by the 1940s and 1950s.

Yet into the 1960s and 1970s, many Canadians began to question the range of industrial policies that encouraged so much foreign investment in Canada. Concerns were raised in several quarters over the implications of foreign ownership of Canadian-based enterprises, and also because so much of Canada's manufacturing sector was of a branch-plant variety that conferred few spillovers into the broader economy (Clarkson 2002). Indeed, by the late 1970s, several economic studies suggested that subsidiaries of foreign-controlled firms (most of which were American) were spending very little on

research and development and that Canada ranked far behind other major OECD nations in expenditures on research and development as a percentage of GDP (Fry 1983, 80). In the late 1960s, the government of Pierre Trudeau began the push for what would later be referred to more colloquially as "the third option." The third option itself intended to reduce Canada's large and growing dependence on the U.S. market for its economic prosperity through trade policies directed at solidifying ties to other trading partners, notably Japan and the European Community. More generally, however, the 1970s were a period in which Canada adopted a series of other policies supported by economic and political nationalists who worried about the influence of foreigners (namely Americans) on the Canadian economy. In addition to trade diversification, Trudeau in 1980 campaigned on a platform that included the "Canadianization" of the economy with a policy mix that included a more overt industrial policy, greater control in the energy sector, and government review of incoming foreign investment (Hart et al. 1994, 16; Fry 1983, 82).

It is easy to cast the years immediately following the 1984 Canadian federal election as representing a dramatic economic policy reversal. Years of autarkic economic nationalism in Canada seemed to rapidly give way to openness to the global economy and deeper integration with the United States. Yet the Canadian shift toward openness multilaterally and integration with the United States was also a byproduct of the pressures on the state arising from many of the longer term trends in the global economy (See Hart et al. 1994; Rodrik 1997; Zeiler 1999). In short, the Canadian economic nationalism of the 1960s and 1970s was being overwhelmed by more powerful, longer-term trends that were being felt within Canadian federalism itself as the provinces asserted themselves and acquired more and more competence in international affairs.

The integration of the global economy was particularly significant for Canadian federalism in several ways. As members of the GATT agreed to reductions in tariff barriers through successive rounds of negotiations, a range of behind-the-border (or non-tariff) measures began to complicate the process beginning with the Kennedy Round in the late 1960s, and significantly delaying the completion of the Tokyo Round into the late 1970s (Eckes 1995, 273; Deardorff and Stern 1981). In Canada, many of those non-tariff measures are in areas of provincial jurisdiction as written in the Constitution Act 1867. Specifically, Sections 92, 93, 95, and 109 of the Canadian

Constitution give significant authority to the provinces to deal with "local issues," particularly those relating to the management of natural resources and agriculture (See Kukucha 2008, 12-42).

Because the Canadian economy is so heavily oriented around trade, the significance of provincial authority over these issues has only grown as the federal government has, through the GATT, negotiated away tariff and other measures under its control at its international borders. Table 1 lists World Bank data for selected years showing levels of exports and imports as a percentage of GDP (X+M/GDP) for each of the three NAFTA countries for these years. In 1975, only 16 percent of the U.S. economy was tied to international trade (exports + imports), in part due to America's enormous consumer marketplace. For quite different reasons (import substitution policies), Mexico in 1975 was similarly configured toward international trade, accounting for only 16.5 percent of GDP. By contrast, Canada was heavily dependent on trade patterns for its economic activity, accounting for nearly 47 percent of GDP in 1975. Fast forward to 2011 and America's exposure to international trade has steadily grown, but still only accounts for 32 percent of GDP. Yet both Canada and Mexico have become dramatically more open to (some would say dependent on) trade, now accounting respectively for 64 and 65 percent of each country's GDP.[2]

In some ways, the composition of that trade is also significant. Canadian nationalists have historically lamented the country's status as "hewers of wood and drawers of water" (a reference to the Old Testament book of Deuteronomy) due to their struggles to stimulate value added manufacturing; 2009's export profile suggests why. The total value of Canada's exports to the world in 2009 was nearly $370 billion, or 23 percent of GDP ($1.56 trillion). Nearly 40 percent of that total ($142,188 million or nearly 10% of GDP) was comprised of agriculture and resource extraction (Source: Statistics Canada). Sections 92, 95, and 109 of the Canadian constitution, in particular, assign control over natural resources to the provinces, inherently generating challenges within the Canadian state and presenting others to its foreign trade partners, notably the United States.

Yet it is important to note that economic policy was not the first area in which Canadian provinces began staking out a larger, more autonomous role in international affairs. Provinces had been engaged in exchanges of one sort or another for decades; every-

thing from teacher/student exchanges among sub-federal education ministries in other countries to provincial premiers leading commercial missions abroad (Leach et al. 1973). However, it was education policy (Section 93) that brought federal conflict to a head when Quebec sought official international standing in extending its connections to the francophone world in the late 1960s (Schlegel 1981; Fry 2009). In 1968, Ottawa and Quebec reached an accommodation on representation in La Francophonie wherein both levels of government would represent Canada at such meetings (Schlegel 1981; Canada 1968a; Canada 1968b). Atkey argued that this accommodation, while not unworkable, was initially infused with mutual suspicion (Atkey 1970).

For a brief period in the early 1980s, provincial activism spawned significant scholarly work on federalism and the provinces (Greene and Keating 1980; Johannson 1978; Leach et al. 1973; Norrie 1984). As such, when Doran penned *Forgotten Partnership* in early 1982, the implications of provincial activity had yet to be fully appreciated. Interestingly, as Doran was completing his manuscript, Ottawa's intervention in the Canadian oil and gas sector had reached a peak with the National Energy Program (NEP). Doran wondered then what would happen if, in reaction to Ottawa's interventionism in an area of its constitutional jurisdiction, Alberta were to send a formal delegation to Washington (Doran 1984, 105). Moreover, Doran wondered how such a move would complicate Canadian federalism, how it would complicate the U.S. response, and what the impact of such an Alberta initiative would have on the psychology of "partnership" he saw as so crucial to the relationship.

In the same period when Quebec began flexing its muscle in education policy abroad, other provinces began expanding their own connections and advocacy efforts as well. Alberta's high profile establishment of a formal advocacy office in Washington, D.C. in 2005, for example, was preceded by several decades of annual visits to the U.S. capital by the provincial premier. Alberta Premier Peter Lougheed (1971-1985), prominently visited Washington numerous times, particularly during the height of the changes brought in by the NEP affecting Alberta's oil and gas sector (Kukucha 2008, 46). The controversy over the NEP continues to resonate in Alberta to this day[3] and prompted renewed emphasis on Alberta's international connections and how best to pursue them, the origins of

which began in the early 1970s. By the mid-1980s, the Alberta government had reorganized itself to reflect a more internationalist orientation that could contribute to (some would say push) Ottawa's foreign policy development, particularly in trade where first the multilateral agenda, and then the U.S.-Canada free trade negotiations (1985-87) involved more and more issues of provincial concern (Kukucha 2008, 51-55, 66-69).

The independent pursuit of provincial interests internationally has reached a new high profile peak in 2005 with the establishment of an Alberta office in the Canadian Embassy in Washington, D.C. In May 2003, bovine spongiform encephalopathy (BSE), or Mad Cow disease, was discovered in an Alberta beef herd, prompting market closure of many countries to Canadian beef. As the crisis dragged on into months and then years, frustration grew in Canada over the inability to persuade U.S. authorities to reopen their borders to what was already a highly integrated trade in live animals; so much so that it was often difficult to tell which country a cow had been born in. However, Canadian anger was most palpable in Alberta where the cattle industry ranked as one of that province's most important sectors and certainly one of its most politically powerful. Yet Alberta's frustration was directed in almost equal measure at Washington and Ottawa over their handling of the situation, once again prompting a renewed focus by the Alberta government how to best represent themselves independently from Ottawa. While there has certainly been more public cooperation between Alberta and the Federal Government over the proposed Keystone XL pipeline, Premier Allison Redford has taken full advantage of Alberta's growing footprint in Washington to press the province's case in favor of the project, visiting D.C. numerous times since becoming Premier.

The idea of an independent office in Washington had long had appeal inside the Alberta government, and was openly discussed among senior bureaucrats in the late 1970s as a response to the NEP. However, the BSE crisis placed renewed emphasis on Albertans being able to shed themselves of dependence on Ottawa for representation in Washington. The province began moving toward establishment of an office in late 2003. Such an office would be dramatically different from the many offices maintained abroad by the provinces (eg. London, New York); unlike the others, this office would be 1) as much about political advocacy as commercial advocacy 2) inde-

pendent of traditional federal cooperation and 3) in the capital city of Canada's most important ally.

Provincial maintenance of an office in Washington was not completely without precedent. Quebec maintains six delegations or bureaus in the United States (New York, Boston, Chicago, Los Angeles, Atlanta, and Washington, D.C.), several with larger staffs than those of many embassies in Washington (Fry 2009). In 1978, just two years prior to the first Quebec referendum on sovereignty, the province established an office in Washington ostensibly aimed at disseminating information to American tourists but whose purpose was really to have eyes and ears in Washington as an independent conduit of information back to Quebec City. Staff at the office had no formal diplomatic credentials, typically included locally hired Americans, and enjoyed an uneasy relationship with officials at the Canadian Embassy.

Yet in the months leading up to the June 2004 federal election, Prime Minister Paul Martin changed Ottawa's position by creating the Washington Secretariat to advance Canadian interests in the U.S. capital as part of a broader effort to improve relations with Washington (Robertson 2005, 47). Under considerable pressure from the Alberta Government, which essentially told Ottawa it would unilaterally open an office in Washington, and perhaps hoping to court some federal electoral support in Alberta, Ottawa blinked with the creation of the Secretariat, reversing long-standing federal policy prohibiting formal provincial representation in Washington. The shift defensively preempted Alberta from going alone at the time, but also opened the door to formal provincial representation in the U.S. capital. Quebec, for instance, could shelve the long-held fiction that its office in Washington was mainly about tourism promotion. Ottawa's policy shift also entailed the creation of a new position, Minister (Washington Secretariat), in the Embassy to act as an interlocutor (less charitably, a chaperone) between the provinces and American stakeholders. Alberta's office consists of two Alberta government employees with diplomatic credentials and two locally hired staff assistants. Of the two employees with diplomatic status, Alberta has thus far chosen to fill one of those positions with high profile figures like former provincial cabinet ministers Murray Smith (2005-2007) and Gary Mar (2007-2011), the former Mayor of Calgary, David Bronconier (2011-2013), and most recently, the former CEO of the Canadian Association of Petroleum Producers, David Manning.

Unsurprisingly, the heart of Alberta's messaging is the importance to American energy security of the oil and gas sector, and the development of Northern Alberta's oil sands reserves. Other provinces have been slow to follow suit and join Alberta in the Canadian embassy. In 2005, Manitoba hired an independent contractor working out of a suburban Maryland home as its representation in Washington. Ontario was rumored to be joining Alberta in the Canadian Embassy in the fall of 2010, but has for now decided on a lower-profile approach similar to Manitoba's.

Should the Provinces be Partners?

How should all of this be interpreted in the context of "partnership"? Should the provinces be formally admitted to the "partnership," offered junior partner status, or perhaps asked to leave the firm?

Although Doran only considered the role of the provinces briefly in *Forgotten Partnership,* he made several key observations relevant to whether provinces are apt "partners." Firstly, Doran argued throughout this work that Canada and the United States conceived of foreign policy toward each other very differently; Canada viewing the relationship primarily through a commercial lens, the United States through a broader strategic lens of which Canada is a component part (Doran 1984, 38-39, 252). Trade and commercial interests have been the overriding influences on Canadian foreign policy toward the United States, but in the context of larger trends in an increasingly interdependent global economy, those interests have increasingly involved provincial interests that have in turn generated clashes within Canadian federalism itself. Yet all of this raises another set of problems with provincial activism noted by Doran in considering the broad thrust of Canadian foreign policy: much of Canadian foreign policy is made in the pursuit of essentially domestic ends (Doran 1984, 86).

In the late 1960s, Ottawa's accommodation with Quebec City on international representation was aimed at preserving national unity. In many respects, Quebec's agitation for international recognition, and Ottawa's response, opened the door for other provinces to follow suit. And follow they did. In the mid-1970s, when provincial activism in pursuit of autonomous foreign connections appeared to be growing rapidly, scholars began assessing the extent of provincial links abroad only to discover that not only was there little

data on provincial activities, relationships were already long-lived and so numerous that assessment was difficult (Leach et al. 1973, 472-475). Moreover, the vast majority of these sub-federal linkages abroad seldom generated tensions between Ottawa and the provinces (Ibid., 470-472). In 1970-71, Leach et al. concluded that there were at least 170 cooperative arrangements in effect between Canadian provinces and U.S. states (475-476). U.S.-Canada relations has arguably always been the summation of countless "hidden wires" (Robertson 2005) connecting the two countries in ways ranging from individual relationships to formal treaties and everything in between. Indeed, the relationship has evolved organically in many different directions and at different levels since the early 1970s. In 2003, the Canada School of Public Service endeavored to assess the extent of connectivity between levels of government in Canada and the United States. In all, they concluded that more than 300 formal treaties, agreements, and MOUs have been established, but that countless informal and personal connections were the backbone of the relationship (Mouafo et al. 2004). States and provinces have been among the most active in extending their formal cross-border tentacles to one another. Below are some recent examples:

- Ontario and Quebec became Associate Members of the Council of Great Lakes Governors (WI, OH, IN, MI, NY, MN, IL, PA).
- Many provinces are associate or affiliate members of regional Councils of State Governments (CSG): CSG West (AB, BC), CSG East (NB, NL, ON, QC, PEI), CSG Mid-west (AB, SK, MB, ON), CSG National (ON, QC).
- British Columbia, Alberta, Saskatchewan, Northwest Territories, and Yukon are full members of the Pacific Northwest Economic Region (that includes AK, WA, OR, ID, MT).
- Annual meeting of New England Governors-Eastern Canadian Premiers, established 1973 (ME, RI, CT, VT, MA, NH; QC, NB, NL, NS, PEI).
- Annual meeting of Western Governors-Western Premiers (AK, AZ, CO, HI, KS, NE, NM, OR, TX, WA, CA, ID, MT, NV, ND, OK, SD, UT, WY; MB, SK, AB, BC, YT, NWT).
- South Eastern US States-Canadian Provinces Alliance (AL, GA, MS, NC, SC, TN; NL, NS, PEI, NB, QC, ON, MB).
- British Columbia and Washington organize joint full Cabinet meetings.

- Alberta has a formal government-to-government consultative mechanism with the State of Montana (Montana-Alberta Advisory Council).
- Quebec maintains several offices in the United States, including New York and Washington, D.C.
- Alberta has co-located an office within the Canadian Embassy in Washington, D.C.
- Ontario is co-located in two U.S. offices and still thinking about joining Alberta in the Embassy.
- Manitoba and Ontario have locally hired representation to monitor events in Washington.

"In general," Doran noted in 1984, "the more regional these matters can become on both sides of the border—that is, provincial-state in character—the easier relations will be to manage at the federal level" (Doran 1984, 105). In many areas, Ottawa has actually tried to facilitate the expansion of sub-federal connections in the United States by providing additional forums for state and provincial legislators to convene, and facilitating when regional cross-border issues arise (anonymous federal officials). In short, the most effective work to resolve regional trans-border irritants—particularly before they become high-profile national issues—is done by state and provincial leaders in their respective national capitals.

Flies in the Cooperative Ointment?

In spite of the constructive nature of many provincial contacts abroad, there remain several looming problems stemming from them. First and foremost, additional provincial activism periodically complicates Canadian foreign policy writ large by making a coherent "Canadian position" difficult to discern. Consider the long-running U.S.-Canada softwood lumber dispute (see Anderson 2006). Because Canada's constitution assigns responsibility for natural resources to the provinces (Section 92A), negotiating a resolution to this dispute with the United States entails a Canadian team composed of federal officials and representatives from each of the four major timber producing provinces (British Columbia, Alberta, Ontario, and Quebec). At issue are the subsidies that the United States alleges Canadian provinces confer to private producers logging and milling trees from crown lands (publicly held), managed

differently in each of them. Moreover, timber is produced on private lands in several Maritime Provinces, requiring an altogether separate negotiation with the United States (Anderson 2004).

Hence, when negotiating with Canada on any number of natural resource matters, the United States is confronted with something of a multi-headed hydra and uncertain who holds the power to make concessions. Former Canadian Ambassador to the United States Allan Gotlieb fretted in his diaries about Canadian divisions creating opportunities for the United States to play "divide and conquer" (Gotlieb 2007, 122). However, opportunities for the United States to play provinces off each other and Ottawa are secondary to Washington's overriding preference for dealing with national capitals. That preference is often frustrated by Canadian federal tensions playing themselves out in the bargaining room. We see many of these same dynamics complicating Canada's efforts to grapple with climate change policy. The government of Prime Minister Harper, like both of his Liberal predecessors, has managed to defer confrontation with the provinces (Alberta especially) over the mitigation of greenhouse gas emissions, in part, by arguing it would be imprudent for Canada to act if there was reason to believe the United States would not act likewise. However, if a U.S. administration is able to enact significant climate change policies in the future, Canada will have to reconcile its interprovincial policy differences.

The capacity of provinces to deal with the "blowback" from their own activism is also questionable. For instance, Alberta's post-2005 foray into the U.S. capital was almost entirely focused on raising awareness of the energy sector. Yet the awareness Alberta generated among policy-makers and thought-leaders in Washington brought with it a degree of scrutiny from well-organized segments of American civil society that Alberta has, at times, seemed ill-equipped to handle (see Anderson 2012b). The provinces frequently complain about Ottawa's representation of their interests in the United States. However, if, as noted above, Ottawa's capacity to advocate has been self-identified as weak, provincial capacity to take up that slack is even more limited, suggesting an inherent unsuitability for the responsibilities of equity partnership.

This set of problems in turn flows into another. Many provincial efforts internationally are as much about scoring domestic political points at home as they are about representing legitimate pro-

vincial interests abroad. As Kukucha has noted, Ottawa is generally deferential to provincial expertise when trade cases, for example, are launched against Canadian products (Kukucha 2008, 54). However, many actions by the provinces are both implicit critiques of Ottawa and its failings in representing key provincial interests abroad and efforts to score political points at home. As executive federalism has become more and more characteristic of Canadian politics, populations increasingly look to their provincial leaders for representation within the federation. Distant Ottawa often becomes the scapegoat for a host of regional and local grievances, such as the National Energy Program, the BSE Crisis, or language rights that drive phenomena like Western alienation or Quebec sovereignty.

Finally, it is possible that Ottawa's policy acquiescence in Alberta's efforts to establish an office in Washington have laid the foundation of some significant problems in the conduct of "partnership" in U.S.-Canada relations. Quebec's long-standing presence in Washington has always made for awkward diplomacy for Ottawa that can become downright tense in periods when separatist-minded Parti Quebecois governments have been in power in Quebec City. What if the newly-elected Parti Quebecois begins openly agitating in the United States for independence? Will the United States necessarily always treat Quebec nationalism differently from nationalist independence movements in other parts of the world? How would Ottawa react if Ontario assumed its office in the Canadian Embassy and began promoting its own "green agenda" at variance with the positions held by either Ottawa or Alberta on climate change? How would a public fight over climate change, for example, between the provinces (add Quebec's position vis-à-vis hydro power here as well) play out in Washington? Where would Ottawa stake out its position? How would Washington respond? Will Ottawa then attempt to put the genie back in the bottle, perhaps reversing its 2004 decision to allow more than economic promotion in Washington? Could Ottawa "kick" Quebec, Alberta, and Ontario out of Washington? The complex mix of pressures and tensions within Canadian federalism that contributed to the 2004 change suggest that this particular genie (Canadian sub-federal representation in Washington) may be out of the bottle.

V. THE AMERICAN STATES: THWARTED JUNIOR ASSOCIATES

A major set of considerations for U.S. officials in dealing with Canada and its restive provinces flows from America's own experience with federalism. There is little doubt that U.S. states wield considerable power, due to their clout economically and because of their sheer number. By one estimate, in 2002 there were 87,576 distinct governmental units within the U.S. federal system, including 3,034 county and 19,429 municipal governments (Fry 2009a, 2). In 2005, the World Bank provided annual gross domestic product (GDP) estimates for 183 nations. If U.S. states had been included as separate entities, 3 would have ranked among the 10 largest, 14 among the top 25 nation-states, 38 among the top 55, and all 50 states among the largest 77 national economies in the world (Fry 2009a, 21).

Former U.S. Supreme Court Justice Louis Brandeis called the states the "laboratories of reform" (Tarr 2001). In the United States, those laboratories of reform began as near-sovereign entities, but have since become more dependent as sovereign authority in the U.S. has concentrated in Washington. In the Canadian setting, the pressures arising from integration within the global economy are pushing toward a more decentralized state. In the U.S., some argue, those same pressures are contributing to less of the self-restraint and deference that has historically characterized Washington's relationship with U.S. states (Fry 2009a, 15). The net result is that the parties to "partnership" are headed in opposite directions; one toward more decentralization, the other toward greater centralization and the accumulation of federal power. Put differently, the states as junior partners in U.S.-Canada relations have been, and will likely remain, junior.

Under the 1781 Articles of Confederation, the original thirteen states were almost entirely autonomous from one another, particularly on those matters of collective defense necessary to prosecute the American Revolutionary War. The Continental Congress relied almost entirely upon voluntary contributions to the war effort; it had no power to tax, no power to compel the states to contribute men or materiel to defeating the British, and no means to pay off debts incurred by the states or the national government. Indeed, so weak were the powers of the national government that the Revolutionary War was nearly lost.

The experience of the revolutionary period was not lost on the nation's founders. After the 1783 Treaty of Paris, formally ending the Revolutionary War, many of the nation's leaders began pushing for a new Continental Congress to revise and strengthen the Articles. After several fits and starts, states' delegates agreed to meet in Philadelphia in May 1787 to talk about how to "revise" the Articles. By September 1787, the Articles had been completely re-written and a new document created, the U.S. Constitution. Over the ensuing two years, formative debates in American history took place featuring perhaps the most famous public advocacy campaign in American history, the 85 *Federalist Papers* penned by James Madison, Alexander Hamilton, and John Jay.

When the required number of states finally ratified the U.S. Constitution in March 1789, the federal government had significantly strengthened powers over the states relative to the Articles of Confederation. Among them were Article I, Section 8's so-called "enumerated powers" giving the national legislature power to do what the Articles of Confederation had not; among them, the power to lay and collect taxes, regulate foreign commerce (commerce clause), pay debts and provide for the common defense of the nation, coin money, raise an army and navy, and to make all laws that were necessary and proper. The U.S. Constitution certainly did not resolve state and regional tensions with the federal government, but it represented a significant centralization of authority and power in the federal government.

In 1819, the Supreme Court ruled in *McCulloch v. Maryland* that the state's efforts to tax a Congressionally chartered national bank were unconstitutional, ushering a period of judicial nationalization of federal policy that fueled some of the mid-19th century sectionalism that threatened to pull the nation apart at the same time it expanded westward (Mayer 1996, 362). States were admitted to the Union two at a time to preserve an uneasy federal balance, north and south; for every state admitted as a free state, another permitting slavery would also be admitted. This tension boiled over in the 1850s, particularly with the Supreme Court's *Dred Scott* decision in 1857, all leading to the outbreak of the Civil War in 1861. Central to the conflict were arguments over the power of the federal government relative to the states on everything from property (the *Dred Scott* case effectively ruled that slaves were property) to a state's right to secede from the Union (which President Lincoln never conceded).

With the Union victory in 1865, and the adoption of the 13th, 14th, and 15th Amendments to the Constitution, all of those questions were resolved and significantly more power accrued to the federal government (Kelly et al. 1991, 320-361). Indeed, the Civil War represents a typical flashpoint in federal-state relations in U.S. history; crises and flashpoints have tended to result in the accrual of additional federal power relative to the states over a range of issues in domestic and foreign affairs.

From the end of the Civil War, through Reconstruction and up to the eve of World War I, all three branches of the federal government (Executive, Congress, and Supreme Court) facilitated the transformation of the United States into a nation-wide economic and political entity. As the nation's economy expanded, Congress began asserting itself in its regulation with landmark legislation such as the Interstate Commerce Act 1887 and the Sherman Anti-trust Act 1890. Both were designed to ensure federal regulatory influence over an increasingly integrated national economy, particularly where private collusion by railroads or trusts limited flows of goods and services throughout the country. Between 1873 and 1890, successive U.S. Supreme Court decisions dramatically shifted the tide toward a nation-wide view and away from the states (Kelly et al. 1991, 391). Particularly important here were the famous Slaughterhouse and Granger Cases of the 1870s that ostensibly upheld state regulatory authority and the concept of dual federalism, but were controversial and featured significant dissents signaling a shift by the Court.

The First World War brought on a significant expansion of federal power, particularly concerning the regulation of the economy for the war effort. Interestingly, little about this expansion was particularly controversial where the dynamics of federalism were concerned (Kelly et al. 1991, 431-441). This war helped to instill the utility of federal power in marshalling the resources of the nation in a cohesive direction.

However, from 1933 to 1937, the New Deal as a response to the Great Depression was a bridge too far, at least for the Supreme Court. After the 1937 Court Packing Crisis, the Supreme Court's rulings reinforced the power of the "commerce clause" (Article I Section 8) to undo limitations on interstate economic activity and establish a presumption in favor of federal regulation of the economy (Kelly et al. 1991, 495-496, 500; Mayer 1996, 386). Moreover, the

New Deal represented a significant shift away from the conception of "dual federalism" wherein each level of government was responsible for defined policy domains and toward "cooperative federalism" characterized by federal transfers to the states that came with strings attached (Mayer 1996, 379-386; Kelly et al. 1991, 502). The New Deal had three important consequences for federalism in the U.S. First, the federal government asserted its sovereignty in whole areas of public policy that left the states little room for significant policy initiative. Second, the New Deal brought about the near-permanent extinction of "dual federalism" as the operating paradigm of federalism in the U.S. Third, the New Deal marked a significant increase in programs of intergovernmental cooperation (cooperative federalism) through grants-in-aid with federal conditions attached (Kelly et al. 1991, 501-502).

The expansion of federal authority into so many areas of national policy life between the Civil War and the onset of World War II primed Americans for additional growth between 1941 and 1945, and beyond. However, President Roosevelt carried the "executive power" (Article II) to new greater lengths than previous presidents, including the expanded use of Executive Orders to initiate federal action (Ibid., 542).

One of the last stands for state's rights advocates came during the Civil Rights movement of the late 1950s and 1960s as federal authorities began enforcing judicial rulings in areas of the South that remained stubbornly segregated a century after the Civil War. In particular, the Supreme Court began "incorporating" or writing the Bill of Rights (first ten Amendments of the Constitution) into the "due process" clause of the 14th Amendment, thereby greatly extending the federal oversight over uniform application of the law across the states (Ibid., 619-621). Moreover, the expansion of grants-in-aid and block grants under the New Frontier and Great Society programs of the Kennedy and Johnson administrations allowed the federal government to bypass recalcitrant state policies in areas such as education and health (Ibid., 647).

However, the federal march into areas of state sovereignty has not gone completely unchecked (Mayer 1996). Interestingly, the 10th Amendment of the Constitution, perhaps the most explicit endorsement of federalism within the Constitution, is depicted in most texts as having largely failed to halt the accrual of federal power over the states (Kernell and Jacobson 2006, 86). As mechanisms for intrusion

into areas of state policy, the "commerce," "necessary and proper" and "due process" clauses of the Constitution have until recently proven far more powerful than the 10th Amendment's reservation of powers to the states (Mayer 1996, 379-392).

Yet an awkward equilibrium exists between the federal government and the states in foreign affairs that leaves the states playing a constructive role as junior partners in "partnership." Intuitively, the federal government reigns as the chief purveyor of American foreign policy. Indeed, while the power over foreign affairs--such as declarations of war, raising armed forces, regulation of commerce, treaty negotiations, commander in chief, and the executive power--has been the subject of tremendous debate within the branches of the federal government, that debate has seldom involved the states. In one of the more important Supreme Court decisions of the New Deal era, *U.S. vs. Curtis-Wright Export Corporation* (1936), the Court suggested the executive branch in particular was best suited to conducting foreign affairs.

> ...the very plenary and exclusive power of the President as the sole organ of the federal government in foreign relations was a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution (Chief Justice Sutherland for the majority, quoted in Kelly et al. 1991, 534).

Yet the states are involved in American foreign policy, in part from having been influenced by many of the same global phenomena as their provincial counterparts. Unlike Canadian provinces that are given statutory authority over things like natural resources that, in the context of a globalized economy, automatically thrust them into an international role, American states have fewer such direct claims. The 10th Amendment to the U.S. Constitution was supposed to have been part of the compromise between stronger government out of Washington and state autonomy. In practice, the 10th Amendment has seldom figured in constitutional jurisprudence (Mayer 1996, 352-353, 362-378).

At the same time, the exigencies of an American economy ever more deeply integrated into the global economy have, at times uncomfortably, thrust states into areas of foreign policy with governors as principal interlocutors. As such, state governors frequently embark on trade missions to promote commercial activity and states maintain numerous trade and tourist offices abroad (Ku 2006, 2410-2411).

However, the foreign affairs activities of states have periodically put the U.S. federal government in awkward diplomatic positions, particularly where state legal systems are concerned. Specifically, there have been a number of instances in which foreign nationals have been charged and convicted of capital crimes subject to the death penalty (Ku 2006). The foreign policy role of governors in U.S. federalism has, as in all federal systems, been driven by pragmatism (Ku 2006, 2386). Yet, as Julian Ku argues, even in those areas where state activities generate considerable clashes with federal objectives in the conduct of foreign policy, Washington has been reluctant to compel state compliance (Ku 2006, 2391). Much like their counterparts in Canadian provinces, state governors have concluded countless bilateral and even multilateral agreements with jurisdictions outside the United States. Some of them are inconsequential and have few foreign policy implications for Washington (Ibid., 2391-2398; Fry 2009a). However, many state-driven initiatives and agreements have placed states in conflict with American obligations under treaties and agreements negotiated by the federal government. One recent example involved a Massachusetts law that denied government procurement contracts to firms doing business with the repressive regime in Myanmar (Burma) (Ku 2006, 2397). The Massachusetts statute was eventually invalidated by the U.S. Supreme Court (*Crosby v. National Foreign Trade Council*, 2001). But this is a rare recent instance in which the federal government's supremacy over foreign affairs has prevailed.

In general, recent jurisprudence and practice in the United States has entailed significant latitude for states and governors to conduct activities abroad normally thought of as within the exclusive purview of the federal government. Recent Supreme Court cases have stopped well short of asserting any "federal supremacy" doctrine (Ku 2006, 2398; 2399-2405). While the U.S. Supreme Court has certainly not reverted to a position of resisting federal intrusion into the states as it did in the early New Deal years, the mid-1990s

did see a revival of the 10th Amendment and the outlining of limits on federal power over the states (Mayer 1996, 388-401; Ku 2006, 2399-2305). For example, two cases, *New York v. United States* (1992) and *Printz v. United States* (1996) established new limits on the federal government's ability to compel the states to implement federal policy, a practice known as commandeering (Ku 2006, 2401-2402). However, the limits on commandeering of states by the federal government have not been tested extensively where the federal treaty making and foreign affairs powers are concerned (Ibid.). There remains doubt over whether treaties negotiated by the federal government are "self-executing" or require implementing legislation (Ibid., 2404). In either case, commandeering limitations imposed by the courts restrict federal power to compel implementation (Ibid., 2405).

In short, the federal government has charted a wide berth approach with respect to the states, preferring to avoid confronting them when initiatives clash with U.S. international obligations. One recent example involved the so-called "Buy America" provisions of the Obama Administration's 2009 $787 billion stimulus package and highlighted sub-federal sensitivities in both Canada and the United States. To many Canadians, the "Buy America" provisions were a potentially damaging protectionist measure designed to shut out foreign (Canadian) bidders on government procurement projects available under the U.S. stimulus package. Reciprocal access to each country's government procurement markets by firms in either seemed assured under the provisions of both the NAFTA and the World Trade Organization's Government Procurement Agreement. However, as many Canadians were surprised to learn, Ottawa implemented the WTO Procurement Agreement in 1996, but had also negotiated terms that limited its applicability to its provinces (See WTO, Government Procurement Agreement, esp. Annex 2). Ottawa did likewise under the NAFTA because of doubts about its ability to compel provincial openness to procurement contracting by foreign firms (NAFTA, Chapter 10, Annex 1001.1a-3).

Because Canada was not a signatory to these measures, there was little recourse for Canadian firms seeking access to the U.S. procurement market. In early 2010, Canada's provinces collectively decided to extend reciprocity in procurement to the United States, but only for the duration of spending under the U.S. stimulus package. They stopped well short of signing onto the full slate of WTO

commitments (See Agreement between Government of the United States and the Government of Canada on Government Procurement, February 2010). American officials could claim that 37 of 50 states had already signed on to WTO Procurement Agreement obligations, but what of the remaining 13 states? They, like Canada's provinces, were exempted through federal "carve outs" of obligations as applied to sub-federal governments. In short, the American states that were signatories to the WTO Procurement Agreement had done so voluntarily. In the current political and economic climate, those same 37 states would be unlikely to volunteer again, nor would the federal government take steps to compel them to do so.

Such carve outs of international obligations are increasingly common as federal states wrestle with how to bring sub-federal jurisdictions into compliance (Ku 2006, 2408-2409). The NAFTA, for example, contains numerous carve outs for sub-federal compliance, including Annex 41 of the environmental side agreement[4] that commits Ottawa to bringing the provinces into compliance with the agreement only in so far as it is able—essentially creating a voluntary set of commitments.

Should the States be Partners?

Unlike their Canadian counterparts, U.S. states operate in an increasingly centralized federal environment wherein constitutional jurisprudence has limited state autonomy in many areas intersecting with foreign affairs. However, perhaps more importantly, the states have fewer incentives to seek formal "partnership" in U.S.-Canada relations, in part because of the asymmetries that exist between the two countries generally. Alberta vigorously pursues oil sector interests in the U.S. because it is an enormous part of the provincial economy and Americans are the primary consumers of Alberta petroleum. British Columbia has done likewise with respect to softwood lumber exports. For the provinces, economic relationships in the U.S. are matters of existential importance. Not so for U.S. states. While Canada is an important, and for 38 states the largest single export market (see Canadian Embassy, State Trade Fact Sheets), none are as dependent on the Canadian market for their economic activity as Canadian provinces are on the U.S.

VI. STATES, PROVINCES, AND THE CLEVELAND AIRPORT RULE

Much of the literature on sub-federal activity by U.S. states and Canadian provinces argues that pragmatism ought to rule the day and that no threat to either federal system is on the horizon (Ku 2006; Atkey 1970; Leach et al. 1973). A mixed bag of influences, including an increasingly globalized economic system as well as evolving and statutory responsibilities within each respective federation, has necessitated the input of sub-federal units into foreign policy. The capacity of each federal government to deal completely, and effectively, with the plethora of international issues it confronts is inherently limited. Moreover, the argument follows, as states and provinces acquire more foreign affairs experience, their niche expertise, their "eyes and ears on the ground" in terms of foreign engagement, and their success in solving problems can only contribute to the success of each country's broader foreign policy agenda.

As Doran noted in 1984, the real utility of the states and provinces in partnership may reside in their capacity and expertise in dealing with regional issues (Doran 1984, 105). "Regional" issues need not be limited to those that exist purely between geographically contiguous states and provinces. Indeed, the trans-national nature of many bilateral issues makes this a necessity. Yet matters that do not inherently necessitate federal involvement, such as facilitating the sharing of technical expertise, academic or government exchanges, regional habitat monitoring, or working to reduce state and provincial barriers to commercial activity, are all areas in which sub-federal governments add considerable value to bilateral partnership. In many areas, states and provinces enjoy a comparative advantage over their respective federal governments precisely because of their localized expertise. As laboratories of innovation, states and provinces have come up with creative programs and ideas that can then be used to pressure their national governments. Both federal governments have subsequently adopted state and provincial initiatives, such as the adoption of enhanced drivers licenses, as secure forms of identification (Anderson 2006a, 9) recently made acceptable for use in lieu of U.S. passport entry requirements under the Western Hemisphere Travel Initiative (WHTI).

Much has changed since the activism of Canadian provinces stimulated academic examinations of their role in Canadian foreign policy in the mid- to late-1970s. Then, the provinces were well

on their way to full partnership. The threat to Canadian unity was thought to be minimal. Provincial activities were contributing to Canadian foreign policy through their regional expertise, jurisdictional competence, and the accommodation they had reached with the federal government on inter-governmental consultation and representation internationally. Yet, as described above, recent years offer reason for a less sanguine view. The agitation by Quebec, Alberta, and other provinces for policy autonomy within Canada has spilled into agitation for autonomy outside as well.

A case in point was the 2003 BSE "Mad Cow"crisis in which a series of discoveries of bovine spongiform encephalitis (BSE) in Alberta cattle herds precipitated the closure of the U.S. market, along with many others, to Canadian beef. Bitterness on the part of Alberta's ranchers, political leaders, and the public at large over perceived shortcomings in Ottawa's initial response to the crisis precipitated the establishment of Alberta's office in Washington, D.C. in 2005. As much as Quebec and Alberta have sought independent representation for issues of importance to them, their actions are also part of a longer-term set of tensions within Canadian federalism itself. In considering full partnership for the provinces, questions arise as to the utility of having federal fights spill out into the streets of Washington, D.C. as provinces begin articulating positions on key policy issues that diverge from one another or Ottawa.

Managing the U.S.-Canada partnership in the context of highly autonomous provinces is already fraught with challenges for Canada's American partners. Even before the BSE mess, or the more recent Keystone XL fiasco, the interminable softwood lumber dispute consistently generated challenges for the United States by effectively confronting Washington with five separate negotiating partners: the four major producing provinces, each with its own forest management regimes, and Ottawa. Instead of a negotiating between sovereign equals, American negotiators must interpret the nuances and parochial posturing of Canadian federalism, much of which is designed for consumption domestically, all while Ottawa vainly attempts to unify the provinces into a single Canadian voice. Washington has a strong preference for engaging national representation from other countries, due in part to America's own federal sensitivities. Yet the challenges posed for Washington by a fractured Canadian polity are myriad and growing, particularly in light of the deal with Ottawa forced by Alberta in 2004 and the longer-standing

presence of Quebec in the U.S. capital, which now is freer thanks to the 2004 agreement. As Doran wrote in 1996 following the last Quebec referendum on sovereignty, "Washington has enough domestic and international responsibilities without adding to its portfolio the task of attempting to administer an unwieldy group of squabbling provinces" (Doran 1996, 106).

A broader, and still unresolved, question involves the effectiveness of provincial representation in contributing to partnership, or their willingness to accept the full responsibility that comes with it. To the extent that provincial eyes and ears on the ground in Washington and elsewhere around the United States broadly contribute to partnership, such representation is welcome. Information from stakeholders and experts, wherever they are located and whomever they represent, is obviously welcome at all stages of policy formation. Yet sub-federal diplomacy within "partnership" is too often a parochial form of niche or single issue diplomacy that could fail to take into account the depth and breadth of the whole "partnership." Thus far, Quebec and Alberta's direct impact on U.S. policy positions has been difficult to discern. Alberta claims some success in advancing its interests in the United States, particularly on energy issues, and especially where information gaps color the views of U.S. legislators. But to the degree that Alberta has been successful, has this effort transformed Canada's function within "partnership" to single-issue advocacy on behalf of provinces? This kind of direct activity by provinces in Washington remains in its infancy and, effective or not, raises obvious questions about the utility of separate provincial representation within "partnership."

Will Washington similarly encounter future problems with its states in the context of "partnership?" The broad history of American federalism suggests that a benign indifference to the foreign activities of states has regularly been interrupted by forceful assertions of federal power. However, recent U.S. Supreme Court jurisprudence has seemingly renewed the import of 10th Amendment limitations on federal power, perhaps slowing the accumulation of federal power. Moreover, the tightrope Washington walks with respect to assertions of power is periodically tempered by blowback from the states themselves. For instance, in the wake of a 2005 Supreme Court decision (*Kelo v. New London, CT*) weakening property rights protections from state expropriation, dozens of constitutional amendment measures were added to state ballots the following fall, all designed to reverse the *Kelo* decision.

Federalism in Canada and the United States will undoubtedly contribute to partnership. However, it remains to be seen whether the contributions of states and provinces to partnership merit their being made equity partners. Clearly, federalism as a competitive incubator of ideas will continue generating benefits for the partnership. But does anyone want to hang out with these aspiring sub-federal entities in the Cleveland Airport? This standard as applied to law firms implies there may be a subjective "fit" dimension to associates becoming partner. No less so, "fit" within U.S.-Canada partnership involves far more than the objective problem solving capacity of associates to the relationship. To the degree sub-federal entities represent eyes and ears, competitive problem solvers, and generators of value-added to partnership, states and provinces ought to advance within it. However, within law firms, disputes among partners are kept quiet and dissent is permitted only within the confines of boardrooms. Genuine partners discreetly resolve disputes amongst themselves, keeping critiques of other partners to a minimum.

Unfortunately, too much of sub-federal activity in both Canada and the United States implicitly involves an adversarial disposition toward the more mature partners, Washington and Ottawa. Hence, the "fit" required for existing partners to be stuck in the Cleveland Airport with prospective partners in the form of states and provinces does not exist. States and provinces will not be asked to leave the firm, but junior, non-equity, partnership is all that should be offered. Until such time as states and provinces can develop a less adversarial relationship toward the established partners in U.S.-Canada relations, the partnership will be content to send the states and provinces on travel through Cleveland while the partners stay at home.

Table 1. NAFTA Asymmetries (in billions $US)

	1975	1987	1994	2000	2006	2011
Canada GDP	$170	$420	$560	$770	$1,274	$1,736
% of North American GDP	9%	7.9%	7.0%	6.5%	8.2%	9.7%
Exports + Imports as %GDP	47%	53%	67%	85%	70%	64%
Mexico GDP	$88	$140	$420	$581	$948	$1,150
% of North American GDP	4.7%	2.6%	5.9%	5.2%	6.1%	6.4%
Exports + Imports as %GDP	17%	33%	38%	64%	58%	65%
United States GDP	$1,600	$4,700	$7,017	$9,764	$13,132	$14,990
% of North American GDP	86%	89.3%	87.7%	88.2%	85.5%	84%
Exports + Imports as %GDP	16%	19%	22%	26%	28%	32%

Source: World Bank. www.data/worldbank.org

BIBLIOGRAPHY

Anderson, G. and Sands, C. 2010. "Fragmegration, Federalism, and Canada-U.S. Relations." In M. Gattinger and G. Hale, eds., Borders and Bridges: Canada's Policy Relations in North America. Toronto: Oxford University Press: 41-58.

Anderson, G. 2012a. "Securitization and Sovereignty in Post-9/11 North America." Review of International Political Economy 19 (5) (December): 711-741.

_____. 2012b. "A Dubious Disbelief." Policy Options 33 (8) (September).

Anderson, G. 2006. "Can Someone Please Settle This Dispute: Canadian Softwood Lumber and the Dispute Settlement Mechanisms of the NAFTA and WTO." The World Economy 29 (5) (June): 585-610.

Anderson, G. 2006a. "North American Economic Integration and the Challenges Wrought by 9/11." Journal of Homeland Security and Emergency Management 3 (2) 1-32.

Anderson, G. 2004. "The Canada-United States Softwood Lumber Dispute: Where Politics and Theory Meet." Journal of World Trade 38 (4): 661-699.

Atkey, R. 1970. "The Role of Provinces in International Affairs." International Journal 26: 249-273.

Aucoin, P. and Bakvis, H. 1988. The Centralization-Decentralization Conundrum: Organization and Management in the Canadian Government. Halifax: Institute for Research on Public Policy.

Barnett, D. 1979. "The Galt Tariff: Incidental or Effective Protection." Canadian Journal of Economics 3 (August): 389-407.

Barry, D. 1980. "The Politics of 'Exceptionalism:' Canada and the United States as a Distinctive International Relationship." Dalhousie Review 60 (1) (Spring): 114-137.

Brown, D. 2002. "Fiscal Federalism: The New Equilibrium between Equity and Efficiency." In Herman Bakvis and Grace Skogstad eds., Canadian Federalism: Performance, Effectiveness, and Legitimacy. Toronto: Oxford University Press: 59-84.

Bow, B. 2009. The Politics of Linkage: Power, Interdependence, and Canada-U.S. Relations. Vancouver: UBC Press.

Burgess, M. 2006. Comparative Federalism: Theory and Practice. New York: Routledge.

Cairns, A. 1971. "The Judicial Committee and Its Critics." Canadian Journal of Political Science 4 (3) (September): 301- 345.

Clarkson, S. 2002. Uncle Sam and Us: Globalization, Neoconservatism, and the Canadian State. Toronto: University of Toronto Press, 2002.

Cody, H. 1977. "The Evolution of Federal-Provincial Relations in Canada." American Review of Canadian Studies 7 (1): 55-83.

Cuff, R. and Granatstein, J. 1977. "The Rise and Fall of Canadian-American Free Trade, 1947-48." The Canadian Historical Review 58 (4): 459-482.

Deardorff, A. and Stern, R. 1981. "A Disaggregated Model of World Production and Trade: An Estimate of the Impact of the Tokyo Round." Journal of Policy Modeling 3 (2): 127-152.

Doran, C. 1996. "Will Canada Unravel?" Foreign Affairs 75 (5) (September/October): 97-109.

_____. 1984. Forgotten Partnership: Canada-US Relations Today. Baltimore: Johns Hopkins University Press.

Eckes, A. 1995. Opening America's Market: U.S. Foreign Trade Policy since 1776. Chapel Hill: University of North Carolina Press.

Fortney, S. 1998. "Professional Responsibility and Liability Issues Related to Limited Liability Partnerships." South Texas Law Review 39 (2): 399-444.

Fry, E. 2009. "An Assessment of Quebec's Relations with States in the U.S. Federal System." Quebec Studies 47 (Spring/Summer): 141-161.

_____. 2009a. "The United States of America." In Hans Michelmann, ed., Foreign Relations and Federal Countries, (Montreal: McGill-Queen's University Press, 2009), 296-323.

_____. 1983. The Politics of International Investment. New York: McGraw-Hill, Inc.

Gotlieb, A. 2007. The Washington Diaries: 1981-1989. Toronto: McClelland & Stewart.

Gourevitch, P. 1978. "The Second Image Reversed: International Sources of Domestic Politics." International Organization 32 (4) (Autumn): 881-912.

Greene, S. and Keating, T. 1980. "Domestic Factors and Canada-United States Fisheries Relations." Canadian Journal of Political Science 13 (4) (December): 731-749.

Hamilton, R. 1995. "Registered Limited Liability Partnerships." University of Colorado Law Review 66 (4):1065-1104.

Hart, M., Dymond, B., and Robertson, C. 1994. Decision at Midnight: Inside the Canada-U.S. Free Trade Negotiations. Vancouver: UBC Press.

Held, W. 1999. "The Transformation of Political Community: Rethinking Democracy in the Context of Globalization." In I. Shapiro and C. Hacker-Corson, eds., Democracy's Edges. Cambridge: Cambridge University Press: 84-111.

Hettne, B., and Soderbaum, F. 2000. "Theorising the Rise of Regionness." New Political Economy 5 (3): 457-472.

Hooghe, L. and Marks, G. 2003. "Unraveling the Central State, but How?: Types of Multi-level Governance." American Political Science Review 97 (2): 233-243.

Jackson, J. H. 2003. "Sovereignty-Modern: A New Approach to an Outdated Concept." American Journal of International Law 97: 782-802.

Johannson, P.R. 1978. "Provincial International Activities." International Journal 33 (2): 357-378.

Kahler, M. and Lake, D. 2004. "Governance in a Global Economy: Political Authority in Transition." Political Science & Politics 37: 409-414.

Kelly, A., Harbison, W., and Belz, H. 1991. The American Constitution: Its Origins and Development, Vol. II. New York: W.W. Norton & Company.

Kernell, S. and Jacobson, G. 2006. The Logic of American Politics. 3rd ed. Washington: D.C., Congressional Quarterly Press.

Krasner, S. 1999. Sovereignty: Organized Hypocrisy. Princeton: Princeton University Press.

Ku, J. 2006. "Gubernatorial Foreign Policy." The Yale Law Journal 115 (9): 2380-2415.

Kukucha, C. 2008. The Provinces and Canadian Foreign Trade Policy. Vancouver: UBC Press, 2008.

Lake, D. A. 2003. "The New Sovereignty in International Relations." International Studies Review 5: 303-323.

Leach, R., Walker, D., and Levy, T. 1973. "Province-State Trans-border Relations: A Preliminary Assessment." Canadian Public Administration 16 (3) (September): 468-482.

Lindquist, E. 2008. "Recent Administrative Reform in Canada as Decentralization: Who is Spreading around What to Whom and Why." Canadian Public Administration 37 (3) (January): 416-430.

Mahant, E. and Mount, G. 1999. Invisible and Inaudible in Washington: America's Policies toward Canada. Vancouver and East Lansing: UBC Press and Michigan State University Press, 1999.

Manning, B. 1977. "The Congress, the Executive and Intermestic Affairs: Three Proposals." Foreign Affairs 55 (2) (January): 306-324.

Marks, G., Hooghe, L., and Blank, K. 1996. "European Integration from the 1980s: State-Centric vs Multi-Level Governance." Journal of Common Market Studies 34 (3): 341-378.

Mayer, D. 1996. "Justice Clarence Thomas and the Supreme Court's Rediscovery of the Tenth Amendment." Capital University Law Review 25: 339-423.

Mittelman, J. 1996. "Rethinking the 'New Regionalism' in the Context of Globalization." Global Governance 2 (2): 189-213.

Mouafo, D., Morales, N.P., and Heynen, J. 2004. Building Cross-Border Links: A Compendium of Canada-US Government Collaboration. Canadian School of Public Policy Action-Research Roundtable on Managing Canada-US Relations. Ottawa: Canada School of Public Service.

Norrie, K., Orwam, D., and Emery, H. 2002. A History of the Canadian Economy, 3rd ed. Scarborough, ON: Nelson Thomson Learning.

Norrie, K. 1984. "Energy, Canadian Federalism, and the West." Publius: The Journal of Federalism 14 (Winter): 79-91.

Norrie, K. 1974. "Agricultural Implement Tariffs, the National Policy, and Income Distribution in the Wheat Economy." Canadian Journal of Economics 7(3): 449-462.

Pastor, R. 1980. Congress and the Politics of U.S. Economic Policy. Berkeley: University of California Press.

Putnam, R. D. 1988. "Diplomacy and Domestic Politics: The Logic of Two-Level Games." International Organization 42 (3) (Summer): 427-460.

Riker, W. 1964. Federalism: Origin, Operation, Significance. Boston: Little, Brown & Company.

Robertson, C. 2005. "Getting Noticed in Washington: The Hard Part of Canada's Job." Policy Options 26 (9) (November 2005): 46-50.

Robertson, R. 1992. Globalization: Social Theory and Global Culture. London: Sage.

_____. 1995. "Glocalization: Time-Space and Homogeneity-Heterogeneity." in Mike Featherstone, Scott Lash, and Roland Robertson, eds., Global Modernities London: Sage Publications, 1995, 25-44.

Rodrik, D. 2000. "How Far Will International Economic Integration Go?" Journal of Economic Perspectives 14 (Winter): 177-186.

_____. 1997. Has Globalization Gone too Far? Washington, D.C.: Institute for International Economics.

Rosenau, J. 2000. "The Governance of Fragmegration: Neither a World Republic nor a Global Interstate System." Unpublished paper presented at the Congress of the International Political Science Association, Quebec City. August 1-5.

_____. 1997. Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World. New York: Cambridge University Press.

Savoie, D. 1992. Regional Economic Development: Canada's Search for Solutions, 2nd ed. Toronto: University of Toronto Press.

Schlegel, J. 1981. "Federalism and Canadian Foreign Policy." The Round Table 71 (282): 179-192.

Slaughter, A. 2000. "Agencies on the Loose? Holding Government Networks Accountable." In George A. Bermann, Matthias Herdegen, and Peter Lindseth, eds., Transatlantic Regulatory Cooperation: Legal Problems and Political Prospects. Oxford: Oxford University Press.

_____. 2004. A New World Order. Princeton: Princeton University Press.

Tarr, A. 2001. "Laboratories of Democracy? Brandeis, Federalism, and Scientific Management." Publius: The Journal of Federalism 31 (1) (Winter): 37-46.

Wolf, M. 2004. Why Globalization Works. New Haven: Yale University Press.

Zeiler, T. 1999. Free Trade Free World: The Advent of GATT. Chapel Hill: University of North Carolina Press.

Government Documents

Canada. 1968a. Department of External Affairs. Federalism and International Relations. Ottawa: Queen's Printer.

Canada. 1968b. Department of External Affairs. Federalism and International Conferences on Education: A Supplement to Federalism and International Relations. Ottawa: Queen's Printer.

Agreement between Government of the United States and the Government of Canada on Government Procurement. February 2010.

Newspapers

Bloomberg Businessweek. 2010. February 17.

Interviews

Anonymous Former Provincial Officials

Anonymous Current Provincial Officials

Anonymous Federal Officials

ENDNOTES

[1] Recent notables include: Donald Savoie, Governing from the Centre: The Concentration of Power in Canadian Politics (Toronto: University of Toronto Press, 1999); Herman Bakvis and Grace Skogstad eds., Canadian Federalism: Performance, Effectiveness, and Legitimacy (Don Mills: Oxford University Press, 2002); Robert M. Campbell, Leslie Pal, and Michael Howlett, eds., The Real Worlds of Canadian Politics: Cases in Process and Policy 4th ed (Toronto: UTP Higher Education, 2004).

[2] In 2000, Canada's ratio of X+M as %GDP actually peaked at 85%.

[3] While many Albertans are unfamiliar with the details of the NEP, the folklore surrounding it in the context of intergovernmental battles with Ottawa continues to echo in the private and public sectors, including its periodic use by Alberta premiers as a warning against federal intrusion.

[4] North American Agreement on Environmental Cooperation.