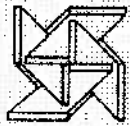


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CSF NOTEBOOK

FROM THE EDITOR

FEDERALISM AND RIGHTS CONFERENCE SUMMARY

The conference was called to order on Saturday, November 14 at 7:00 p.m. by Deborah Willig, President of the Philadelphia Bar Association. James Jorden, Deputy City Solicitor for the City of Philadelphia presented a proclamation issued by Mayor Edward G. Rendell declaring

November 14-16, 1992 "Federalism and Rights Conference Days" in Philadelphia. Welcoming remarks were given by Daniel J. Elazar, Director of the Center for the Study of Federalism. The keynote address was delivered by Talbot (Sandy) D'Alemberte, immediate-past President of the American Bar

Association. Mr. D'Alemberte examined the competing points of views, one that holds that the development of state constitutional principles can be the vehicle for the expanded protection of individuals versus the other in which claims of federalism have been used to defeat claims of rights. He concluded that both remain valid.



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On Sunday morning, Daniel Elazar set the tone for the issues that would be explored throughout the proceedings in his presentation "Federalism, Diversity and Rights." Dr. Elazar outlined the three most important inventions of modern democratic governments as federalism, the protection of individual rights and the idea of civil society. Professor Donald Korrmers of Notre Dame University provided commentary.

Session three, also a plenary address, featured Prof. Michael Zuckert of Carleton College. Dr. Zuckert's presentation "Toward a Theory of Corrective Federalism: The United States Constitution, Federalism and Rights," argued that federalism and rights are not necessarily hostile to one another; that American federal institutions have brought out both the positive and negative implications of this relationship; and the Supreme Court has been hostile in applying the post-Civil War amendments as a solution to imperfections in that relationship. Zuckert concluded that the relationship between federalism and rights could be harmonized by returning to the scheme outlined in the post-war amendments. Commentary was provided by John Kincaid, Executive Director of the Advisory Commission on Intergovernmental Relations.

Session four, a luncheon address, featured Prof. Irwin Colfer of McGill University. In his address entitled "Can the Center Hold: Federalism and Rights in Canada," Dr. Colfer assessed the prospects for the continued existence of Canada as a federal nation. He also reviewed the history of the Canadian Constitutional Act of 1982 and its failure to properly consider federalism or the problems that have plagued Canada throughout its 125 year history.

In the afternoon, three working sessions were held concurrently. In

session five, Dr. Bertus de Villers, Director of the Centre for Constitutional Analysis in South Africa presented a paper entitled "Federalism in South Africa: Implications for Individual and Minority Protection," in which he assessed the prospects for a federal solution in the creation of a new South Africa. Commentary was offered by Prof. Clement Kato, Temple University. In session six, Prof. Jean Yarrbrough of Bowdoin College traced the development of the relationship between federalism and rights in her paper "Federalism and Rights at the American Founding." Commentary was given by Dr. Robert Vicks, American Enterprise Institute. At session seven, the Honorable Dorothy Beasley of the Georgia State Court of Appeals addressed the issue of "Federalism and the Protection of Rights: The State Constitutional Perspective." Commentary was offered by Prof. Robert Williams, Rutgers University Law School.

After dinner, Dr. Alexander Granberg, Advisor to the President of Russia, presented a paper entitled "Transformations of Federalism in the Soviet Union and Russia." Dr. Granberg asserted that Russia faces two aspects of federation: the internal, aimed at preventing the break-up of the Russian Federation, and the external, including efforts to preserve certain, primarily economic, institutions and functions in the territory of the former USSR.

Sessions nine through eleven were concurrently held on Monday morning at 9:00 a.m. At session nine, panelists Drs. Isawa Elaigwu of the University of Jos in Nigeria and Vojislav Stanovic of the University of Belgrade offered their perspectives on the question "Is Federalism the Solution to Protecting the Rights of National Minorities?" During session ten,

Harold McDougall, of Catholic University, focussed on three quality of life areas which questioned the appropriate plane of government at which "positive rights," or entitlements to health, education and housing should be delivered in his paper "Who is Responsible for Our Quality of Life? Positive Rights, Federalism and Community." Commentary was offered by John Piltenger, Rutgers University Law School. Prof. Earl Maltz of Rutgers University Law School, William Nelson of the New York University Law School and Paul Finkelstein of Virginia Polytechnic Institute and State University debated various interpretations of the application of the fourteenth amendment and the protection of rights to the American federal system.

At 10:45 a.m., sessions twelve through fourteen were conducted. The Honorable Koen Lenaerts, Judge of the European Community Court, examined federalism and rights in Europe at session twelve. Judge Lenaerts argued that federal features and rights have had a mutually reinforcing impact on each other throughout the development of the European Community. Commentary was given by Prof. Rafael A. Fornate-Doris, Jr., Temple University School of Law. At session thirteen, the issue of modern constitutional theory was addressed by Prof. Gary Jacobsohn. He concluded that "constitutional amendment, formal and informal, has ... paved the way for the erosion in federalism's most esteemed place in American jurisprudence." Commentary was offered by Prof. G. Alan Tarr, Rutgers University. In session fourteen, Prof. Carol Rose of Yale University, delivered a paper that asserted that recent trends in the relationship of federalism to property rights indicate that the federal judiciary is ready to apply some brakes to runaway state and

local property regulations. Commentary was given by Prof. Michael Libonati, Temple University School of Law.

The conference was summarized at session fifteen by Prof. A.E. Dick Howard of the University of Virginia. Acknowledging that American federalism has had both

its bright and dark chapters, Prof. Howard noted that federalism in some form may offer emerging democracies a peaceful alternative.

Over the course of the conference, over 200 individuals from 35 nations participated in its proceedings. This conference has been a major contribution to the

comparative study of the relationship between federalism and rights. The publication of a book based on the papers presented is currently being negotiated. It will be edited by the conference organizers Ellis Katz of Temple University and G. Alan Tarr of Rutgers University.

Copies of the papers are available through the Center for the Study of Federalism for \$20.00.

CITY OF PHILADELPHIA

Proclamation

Around the globe, there are rising demands for autonomy by diverse ethnic cultures. Countries and their political leaders are confronting the problems presented by the multi-ethnic state.

These problems are becoming more difficult as the uniformity imposed by Eastern European socialist regimes is on the wane, and new opportunities for transborder economic and cultural transactions are created by the integration of Western Europe.

Federalism, the attempt to combine effective national government with considerable local autonomy, may provide the framework for the peaceful resolution of ethnic conflict and the protection of individual rights. A major conference "Federalism and Rights," hosted by Temple University's Center for the Study of Federalism, and held at the Philadelphia Hilton and Towers, will bring together leading scholars with educators and public officials throughout the world, to consider this complex relationship between federalism and individual liberty.

The Conference will be held on the occasion of the Center's 25th anniversary, and the 200th anniversary of the promulgation of the Bill of Rights, in cooperation with the Philadelphia Bar Association, Rutgers University at Camden, and the U.S. Advisory Commission on Intergovernmental Relations.

THEREFORE . . .

I, Edward G. Rendell, Mayor of City Philadelphia, do hereby proclaim Saturday, November 14 to Monday, November 16, 1992, as

FEDERALISM AND RIGHTS CONFERENCE DAYS

in Philadelphia, and urge all citizens to attend the Conference sessions which are free and open to the public, in order to understand the current issues involving federalism and rights.



Edward G. Rendell
Mayor

Given under my hand and the Seal of the City of Philadelphia, this fourteenth day of November, one thousand, nine hundred and ninety-two.

INTERNATIONAL VISITORS



The Center was visited by a delegation from Mozambique to discuss the creation of a federal system in that country. The Group included the President of the

Democratic Party, Mr. Wehla Monakacho Ripua; the National Director for State Organization, Mr. Carlos Manuel; the Head of Department Assembly of the Republic; and the Editor of "Domingo" newspaper and Special Correspondent for "Mediafax"

newspaper, Mr. Lourenco Jossias.

* * *

Interested in learning more about the American political system, the Coordinador del Movimiento Nacional de los Jovenes in Mexico also visited the Center in November.

* * *

Mr. Eruate V. Tavai, special assistant to the Prime Minister of Fiji, visited the Center in January to discuss U.S. Federalism and the Constitution.

BITNET DIRECTORY

CORRECTION: Mr. Dwight Herperger's bitnet address should read HERPERGR@QUCDN. His internet address is HERPERGR@QUCDN.QueensU.Ca.

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BOOK REVIEWS

The Constitutional Amending Process in American Political Thought. By John R. Vile. Praeger Publishers, 1992 (ISBN 0-275-94280-5, 224 pp., \$47.95)

Most scholars realize the importance of the various relationships that were built into or have developed out of the Constitution, one of the more important being the amending process, a relatively under-studied subject. John Vile has written *The Constitutional Amending Process in American Political Thought* in an attempt to remedy this.

There is a great deal on the subject and Vile makes a point to discuss much of it.

This book presents debates over the constitutional amending process as a perennial theme in American political thought. The reader will gain a new respect for the role that the amending process has played both in American political thought and American history. Most

importantly, in the course of this book the author discusses both philosophy and history. Before getting into the debates over the process, the first section is dedicated to the philosophical heritage. Vile begins with a discussion of the views of political philosophers and others who have influenced the thinking of the framers. The amending process that

evolved out of the thinking held by the framers has been criticized on many fronts. It is said to be anti-majoritarian. Others say it is simply not capable of serving modern needs for change. None-

theless, it has survived and so has the system of which it is a part. Vile discusses, to some extent, whether the political system survives in spite of the amending process or, at least partly, because of it. It is Prof. Vile's view that the philosophical background

material on debates over the amending process shed additional and necessary light on the historical development of the Constitution. This is no doubt true as demonstrated in *The Constitutional Amending Process in American Political Thought*

Desegregation in American Schools: Comparative Intervention Strategies. By Brian L. Fife. Praeger Publishers, 1992 (ISBN 0-275-94140-X, 224 pp., \$39.95)

Brian Fife's *Desegregation in American Schools* is an exhaustive study which examines the question of which type of desegregation plan is most effective. Fife uses myriad case studies to discuss the subject.

The author looks at what he calls "intervention strategies" and compares them, this study is not a simplistic one. The book is different from others on the subject in that it does not categorize various desegregation plans into the two traditional categories of mandatory or voluntary. Rather, Fife sets up a continuum of choice coercion that better expresses the difference in approach. Some mandatory programs may more closely resemble a program that could be cate-

gorized as voluntary than it would a more extreme mandatory program.

It is within this continuum that the case studies are analyzed. This continuum allows the author to better explain the variation between diverse desegregation orders that have been implemented in urban America. Additionally, when studied in this fashion, the whole issue of measuring segregation can be addressed in a new way. Fife concludes that mandated desegregation techniques reduce the level of segregation to a greater degree than less coercive plans.

This conclusion shouldn't surprise the reader. What surprises me is that the issues surrounding school

desegregation are not studied from the foundation that he lays. Perhaps the conclusion of the author doesn't surprise anyone because we have heard it all before. What would be new is more study of the difficulties and obstacles to an effective desegregation plan as well as some of the philosophical bases for those disagreements.

The case studies seem capable of providing ample material to draw conclusions on which types of plans are desirable and which ones are not. Should public policy makers consider costs of a plan weighed against better use of limited resources? I think these are some issues that do not get the proper attention and are the ones that go to the heart of the issue.

Contemporary American Federalism: The Growth of National Power. By Joseph F. Zimmerman. Praeger Publishers, 1992. (ISBN 0-275-94386-0, \$17.95)

The series editor's preface to *Contemporary American Federalism* says, "(the) book appears at a very auspicious time. Interest in federalism is burgeoning in Europe, and the long federal experience of

the United States offers an exceptionally rich field for exploring the characteristics and vicissitudes of this particular form of government." The best way to describe the book is to call it a primer.

By this I do not mean to suggest that it is simplistic; rather, Prof. Zimmerman's book covers all of the appropriate material that is needed for a thorough study of federalism.

This volume has been written for students of the U.S. system of government, and for students interested in the practice of federalism. In studying the American model, the system of federalism can be understood and applied to other political entities. The book is a text on American federalism that enables a model federal system to be known.

The American federal system has changed radically since its creation. The changes continue and the American federal system grows more complex. Prof. Zimmerman explores the roots and changes of this system. The book links the system's current practices with its history and looks forward to the most important federal system in operation today. Zimmerman traces the development of the U.S. federal

system from 1789 to the present. He traces the evolution of the system and focuses on the shifting balance of power between the federal government and the states. In order for one to understand these changes, it is important to know the needs or movements of the time. The relationship of federalism is one that allows for change. This is why the U.S. federal system is an important one to study in understanding the ideas of federalism.

Zimmerman introduces the theories of federalism and explains how they can be used to understand the system as it was originally drawn up and how it operates now. Many important trends in federal-state relations are examined.

A currently important aspect of this federal state

relationship is preemption. Zimmerman covers preemption by the legislature and judiciary and its impact upon the states. In Zimmerman's words, "Congress has approached the issue of preempting state and local governmental regulatory authority on an ad hoc basis and has failed to conduct a comprehensive examination of the desirability and effectiveness of the various types of partial and total preemption." If we are better able to understand the basis for a federal relationship (which Zimmerman sets out to do in this book) we will be better able to make rational reforms in the area of preemption as well as other areas affecting the federal-state relationship.

A Preface to American Political Theory. By Donald S. Lutz. University Press of Kansas, 1982. (ISBN 0-7006-0545-2, \$12.95)

Prof. Lutz starts at the very beginning. What is American political theory? What makes some idea or thought unique American political thought? Is political thought the same as political theory? These are the basic questions that Lutz addresses in working out a "Preface" to the discipline. The discipline needs works like this. Prof. Lutz contends that American political theory needs to be rescued from the undeserved status of a subordinate sub-field of political theory.

In *A Preface to American*

Political Theory, Lutz sets out to emancipate American political theorists from both empiricism and inappropriate theories and methodologies. He wants to see a core of American political theory established and have it distinguishable from other disciplines. Lutz wants to see students of American political thought given the tools with which to study.

For a book on political theory, *A Preface* relies heavily on empirical research. However, this is an attempt to

show the reader how analysis can be made within the discipline. Lutz's analysis would be philistine. This is what the discipline needs.

Lutz's book establishes rules from which to approach the study of American political theory. These rules enable the student to be aspirational without being an empiricist. Lutz's goal is not unique in this respect. This is often a criticism of the discipline in its current state. It is a valid criticism and one that is not adequately addressed. Hopefully this book will do its part.

PUBLIUS: THE JOURNAL OF FEDERALISM

1993 Subscription Rates and Information

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FEDERALISM AND THE NATION STATE: WHAT CAN WE LEARN FROM THE AMERICAN EXPERIENCE?

by Samuel Beer

My task is to ask what we can learn about the nature and future of federalism from American experience. I propose to make the question concrete by attempting a comparison with the Canadian experience in the hope of also getting light on the prospects of federalism generally.

At present these prospects are not better than mixed. About a year ago the London Economist gave a list of "federations in turmoil" - Canada, Czechoslovakia, India, Yugoslavia and the Soviet Union - along with federations that has failed - Central Africa, the West Indies, and Nigeria. Federalism in Germany and the United States was termed "flourishing." Since then the Soviet Union and Yugoslavia have moved into the failure category. Germany has found the problems brought on by the extension of its federation far more difficult than expected. Although American social and economic problems are no less acute, they are not, however, directly federal. The big question for the future of federalism is the shape to be taken by the European Community.

The way the title of the conference is framed, it suggests a certain tension between federalism and the nation-state: indeed, federalism as an alternative state form to the nation-state. What I have to say in briefest summary is that whenever

as a federation has been owing in great part to the fact that it is a nation-state

"... whatever success the U.S. has had as a federation has been owing in great part to the fact that it is a nation-state - the first nation-state . . ."

- the first nation-state, according to a recent book. My hypothesis, however, is not meant to suggest that American federalism can serve as a model. The U.S. is an odd kind of nation-state, which has not been replicated elsewhere. It may well be that Canada, precisely because of its difficulties, is a better guide to the future.

I start from the conventional definition of federalism, as meaning a kind of political system in which a territorial division of authority between a general government and several regional governments is established by some sort of exceptional legal provision. It's not just decentralization we are talking about, but decentralization with a constitutional basis. This question gets into politics in the U.S. much less than in Canada, but at times it is given some prominence. When President Reagan took office in 1981, for instance, he proclaimed a "new federalism." Its central thrust was

to cut back on the activities of the federal government - and indeed of all governments - by reducing or eliminating a vast number of federal programs, the principal cuts falling on aid to state and local governments. The President judged these activities to be inefficient, unnecessary and sometimes positively harmful. He also claimed that they were improper under the Constitution. Not so much in the strict sense that they violated specific provisions of our fundamental law, as in the larger theoretical and historical sense that they offended against the true meaning of the documents.

In his first Inaugural address on January 20, 1981, accordingly, President Reagan promised to "restore the balance between levels of government." And while he did not elaborate his political philosophy at that time, he made clear in a phrase or two his reliance upon a certain theory - the compact theory - of the Constitution to justify his new federalism. "The Federal government," he declared, at one point "did not create the states; the states created the Federal government."

This allegation did not pass without comment. In response to the President's use of the compact theory, Prof. Richard B. Morris of Columbia called this view "a heary myth about the origins of the Union" and went on to summarize the evidence showing

that "the United States was created by the people in collectivity, not by the individual states." No less bluntly, Prof. Henry Steele Commager of Amherst said President Reagan did not understand the Constitution, which in its own words asserts that it was "ordained" by "We the People of the United States," not by the states severally. An ardent liberal, he went on to argue that this view of the origin of the Constitution abundantly justified and even mandated the new purposes served by federal power in recent times.

This bit of political fist-cuffs between the President and the professors had its entertainment value. It also reflected a conflict of ideas and values which goes back to the beginnings of the republic and which informed the most serious crisis of our first century, the Civil War. In that struggle President Reagan's view, the compact theory, was championed by Jefferson Davis, the President of the seceding South. Under the Constitution, which, setting forth the terms of this compact, he formed not more than a "close alliance," "each state," to quote his words, "was, in the last resort, the sole judge as well of its wrongs as of the mode and measure of redress." On the other hand, the first Republican President, espoused the national theory. "The Union," said Abraham Lincoln, "is older than any of the states, and in fact, it created them as States...The Union and not the States produced their independence and their liberty...The Union gave each of

them whatever of independence and liberty it has." There could therefore be no constitutional right of secession, nullification, interposition, or indeed of what some have called "massive resistance" by any one or more states.

In these same years the Canadians were establishing their own federation. It will light up the ideas that shaped and motivated this effort, if we look at how the Canadian framers regarded the American conflict and the lessons they drew from it. With regard to both theory and history, they accepted the Southern account. One finds this acceptance in both the main parties, the Conservatives and the Liberals. John A. MacDonald, speaking from the tragedy of the war, attributed it to the weakness of the central government and of the federal bond in a Union which had been formed by a compact among sovereign states. Liberal reformers likewise traced the conflict to "the idea of the United States constitution...that the central government is a delegated government, deriving its powers from the 'sovereign' states which go to make up the Union."

In conformity with these views, the Canadian framers gave their new federal government much stronger legal powers than those possessed by the federal government under the American constitution, the most notable being the powers of reservation and disallowance. The words that were embodied in the British North America Act of 1867 were more than adequately adapted to producing

a markedly centralized federal system. The outcome realized over the next half century or so, however, was a far weaker central government and more fissiparous federation than the American. The blame for this restrictive outcome is often put on the Judicial Committee of the Privy Council. And certainly the weakening of Ottawa by judicial review stands in marked contrast with the strengthening of Washington during the same period by a supreme court appointed by long line of Republican Presidents. The provincialist tilt of the JCPC is undeniable. But the arguments of the provincial rights movement won out not only before that far off British tribunal but also throughout wide sectors of public and governmental opinion in Canada. Its success was achieved not only in the judicial process, but also as Prof. Robert Vipond has observed, "in the larger process of defining a distinctive Canadian political culture."

In comparison with the American experience, what was missing in Canada was not only a nationalist court, but also and especially an equivalent of the meta-legal theory which shaped the way courts, governments and the voting public in the United States understood and construed the law of their Constitution. It is ironic and not a little puzzling to note that the theory which did gain acceptance in Canada and which provided a background of constitutional interpretation was in essentials much the same as the anti-nationalist, states rights outlook

which many Canadians had seen as the malign influence leading to the American civil war.

At the time of the American founding and the controversy over the Constitution, the advocates of the two approaches, the compact theory and the national theory, shared similar political values. Both were democratic, or to use the less demanding word, republican, being champions of government by the many rather than by the few and believing that popular government was the best safeguard of individual liberty. They differ over the question of scale. The advocates of the compact theory held that self-government was feasible only in a small society. A big republic, they believed, would be reduced to conflict and impotent confusion by the diversity of interests and ideas among its citizens, leading ultimately to anarchy. The small republic, on the other hand, thanks to its homogeneity would be able to govern itself coherently and to agree on how to protect the rights and liberties of its citizens. Government would be "closer to the people" in the sense not merely that citizens would be physically nearer to one another, but rather that their interests would be more in harmony and their sympathies stronger and more intimate. For these reasons, in the words of the Anti-Federalists, such a polity would have "individuality," or as we would say today, it would be more of a community.

Morally and politically self-sufficient, such a community, because of its small scale,

however, would need to band together by compact with other similar bodies in order to protect itself against foreign

"... such a polity would have 'individuality,' or as we would say today, it would be more of a community . . ."

enemies. This inference of the need for a compact was secondary. The basis of the claim to legitimacy was the contention that the small state was the proper seat of self-government and freedom. Coming down from Machiavelli and Montesquieu, this small republic theory provided the intellectual basis of the opposition to the Constitution at the Philadelphia convention and during ratification. After its defeat in those encounters, moreover, it acquired a second life as a way of construing the Constitution, which culminated in the formidable polemic of John C. Calhoun. "The very idea of an American People, as constituting a single community," said Calhoun in a climactic challenge to nationalism, "is a mere chimera."

The Federalists attacked both elements of compact theory. If such an agreement were the basis of central authority, they argued, the autonomy of the member states would render it incapable of maintaining order at home or security abroad, as demonstrated by the sad history of the country under the Articles of Confederation.

The idea that won the day for them, however, was their critique of the small republic theory. Granting that the bigger country would be the more diverse, they turned the argument of the Anti-Federalists on its head, arguing that diversity would be a more secure ground for political and individual liberty. The classic exposition is James Madison's Tenth Federalist paper. Since no polity can ever be perfectly homogeneous, he observed, smallness of scale simply sets the stage for a narrow minded majority to oppress the minority. (I could not help recalling this analysis of Madison's when I read the report of a speech by Raff Dahrendorf in Budapest recently in which he denounced "the curious desire to live in a homogeneous environment" as a cause of the growing ethnic conflict in Yugoslavia and generally in Eastern Europe.)

The way to reverse the tendency to "tyranny of the majority" inherent in the small republic, continued Madison, is therefore to "extend the sphere" of government so as to "take in a greater variety of parties and interests." While Madison believed that such heterogeneity would avert the danger of the factious majority, that did not mean that he expected, let alone hoped, that pluralism would paralyze government. On the contrary, like his nation-building co-author Alexander Hamilton, Madison looked forward to an activist government at the center which would not only safeguard the rights of all citizens but also pursue what he called a

"more engaged plea of public policy." Government would be majoritarian, but as he wrote in his great summarizing paper no. 51, thanks to "the great variety of parties, interests and sects" in the extended republic of the United States, "a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good."

Madison had great hopes for such non-factionous, civic majorities. A coalition of this kind was not a mere collection of individuals, but a body of citizens sharing "principles" which, as expressions of justice and the general good, were worthy of general assent. The import of his analysis, therefore, was to show how the citizens of the extended republic could achieve unity out of diversity; in other words, how they could act as the "one people" who in Jefferson's declaration had made itself independent. The people display that capacity in two roles expressing their sovereignty. "They are the constituent sovereign which ordains the Constitution and thereby creates the federal system of government in which both levels, state and federal, derive their authority from the same source. As the political form, moreover, which governs according to these rules, they exercise a limited constitutional power as the governmental sovereign."

How Madison expected the people to perform in their capacity as governmental sovereign brings out the principal function of the states in the scheme of na-

tional federalism. In Federalist 48, Madison sets out to answer certain critics who said that under the proposed Constitution the general and the state governments "in their efforts to usurp the authority of each" will be "uncontrolled by any common superior." Accusing these adversaries of the Constitution of having lost sight of "the people," Madison wrote: "Notwithstanding the different modes in which [the federal and state governments] are appointed, we must consider them as substantially dependent on the great body of the citizens of the United States...The federal and State governments are in fact but different agents and trustees of the people constituted with different powers, and designed for different purposes...The ultimate authority, wherever the derivative may be found, resides in the people alone."

In no way contradicting his often asserted proposition that the checking process depends in the first instance upon the rivalry of the two sets of office-holders, Madison does not make this competition the conclusive control or who will come out on top. Explicitly, he declares that "whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expense of the other, will not depend merely on the comparative ambition or address of different governments." Rather the outcome "in every case" will "depend on the sentiments and sanction of their common constituents."

Thanks to ambition, which typically motivates men in power, the officeholders at

both state and federal levels will seek to protect and to extend their jurisdictions. The decisive part in determining the outcome of these contests however, will not be some merely mechanical balance, but the intervention of "the great body of common constituents," that is, the national electorate, the voters at both levels of government. When the people intervene to turn back some abuse - for instance, to use the state governments to correct the federal government - they are part of the "checks and balances" of the system. But in the Madisonian scheme the people intervene not only to correct, but also to direct, one or the other level of government. As an activist and nation-builder, Madison perceived how these intergovernmental controls could be used not only to restrict, but also to shape and direct federal as well as state action. For example, he perceived how state laws could serve as models for federal legislation, in one instance pointing a scene of "the skillful individual in his closet, with all the state codes before him" compelling "a law on some subject of taxation for the whole Union."

This positive capacity of the common constituents to use the states for larger national purposes was pointed out by other commentators on American government. In 1838 James Bryce in his American Commonwealth takes note of how "federalism enables a people to try experiments which could not safely be tried in a large centralized country." Later on, this function of the states, shared

terized in the phrase "laboratories for experimentation," was given wide circulation by Justices Oliver Wendell Holmes, Jr., and Louis D. Brandeis. This positive, national function of the states, as Madison's perceptive speculation indicates, was inherent in federalism on the American plan.

"*Divide et impera*, the reproached axiom of tyranny," wrote Madison, "is under certain qualifications, the only policy, by which a republic can be administered." National federalism makes two principles serve the cause of popular government by reversing the roles of governors and governed. Now the governed divide their governors for the sake of the people's interests. The object of the controls of the federal system is not merely to preserve the "constitutional equilibrium" between the federal and state governments. It is primarily to enable the common superior of both, the people at large of the nation, to intervene at either level in order to promote justice and the general good. This division of power makes the governed the arbiter between the two sets of governors and the champion of the people's rights and interests within each.

In the Madisonian theory of constitutional construction, the state governments are charged with the care of certain "local and lesser interests" and the federal government with "the general and greater interests" of the nation. This rule makes good sense on grounds of utility and is much the same as the criterion taken as a premise by advocates of

"fiscal federalism" today when they distinguish between "internalities" and "externalities." The weakness of the local/general standard as a guide to the constitutional decentralization required by a federal scheme is that in a developing economy the boundaries of what is local and regional continually change. The maps drawn by economic geographers of the proper regional jurisdictions of the United States

"... federalism enables a people to try experiments which could not safely be tried in a large centralized country."

center on the great metropolitan areas, and so are rarely congruent with existing state boundaries. The enduring rationale for the states is not economic but, as in Madison's concept of divide and rule, political.

Such in brief is the theory of national federalism.

The chief immediate object of the Federalists at the constitutional convention was to add certain new powers to the federal government. Their leading minds recognized, however, that these increases in formal authority would fail to cure the fatal weaknesses of the compact federalism of the Articles of Confederation, if the political theory which explained and justified these increases left sovereignty in the member states and therefore would court an erosion

of authority like that suffered by Ottawa. The framers therefore integrated their advocacy of the new powers with the new normative theory of national federalism.

Ideas of this kind did not, and could not, make their way into theorizing about Canadian federalism and into the political culture that shaped the way that system really worked. There were some parallels. As in the American case, the powers of the two levels of government, federal and provincial, legally came from a single source, the British parliament. In contrast with a true compact federation, therefore, the provincial governments could not easily claim superiority as the source of federal authority. Yet on the plane of political theory, in the course of the agitation for provincial rights, the provincialists gained the upper hand over the centralists. Convention overruled law, as seen in the decurtation of the legal powers of reservation and disallowance.

There had been a time, of course, when the aristocratic and monarchic claim of the Westminster parliament was far stronger than any democratic or republican pretension. Under the Old Whig Constitution as expounded by William Blackstone and Edmund Burke, the king-in-parliament was an assembly of men whose preeminent virtues and wisdom entitled, and indeed obliged, them to rule Britain and its dominions, a claim that was widely recognized among British subjects, including until 1776, the Americans. At the time of the British North America Act, although that

ancient claim still had some vigour, it was rapidly losing out to the democratic idea. In the competition for legitimacy on this ground, the provinces had a case and the federation did not. The provinces could appeal to history since it was they who from the 1820's had initiated and led the struggle for responsible governments. The philosophical strength of their claim, however, lay in their use of the small state theory of democracy to demonstrate that on the grounds of homogeneity, sympathy and local knowledge they were the primary seats of self-government and freedom.

Whether or not MacDonnell and the defenders of central power were acquainted with the national theory advanced by Lincoln and his partisans, it would have been worse than useless for the Canadian centralists to have tried to make a similar case for their cause. Suppose they had attempted a Canadian equivalent of George Washington's message (actually composed by Alexander Hamilton), when in his Farewell Address he proclaimed the Union "an indissoluble community of interest as one nation." Neither the British of Upper Canada nor the French of Lower Canada could have been moved to anything but indignation by such an appeal. "We desire self-government," declared the voice of Liberal reform in Ontario, the *Toronto Globe*, speaking for both communities in 1854, "in order that the separate nationalities of which the population is composed may not quarrel." In a sense the compact theory, which as early as 1868 was

put forward by some provincial partisans as a rationale for the Confederation, did correspond to reality.

In some such way the great or provincialism of Canadian political culture as compared with the greater nationalism of American political culture took shape and continues to fit with and help account for marked differences in political behavior. To mention some with further explanation: 1) the confederal party system of Canada in contrast with the integrated party system of the United States; to use Donald Smiley's contrasts; 2) the distant relations of the federal government with local governments, bypassing state governments, in contrast with the far stronger intermediary position of the provinces; 3) executive federalism in contrast with the intergovernmental jockey in the U.S.; 4) and not least the role of the states as agents of national purpose in contrast with the far greater autonomy of the provinces.

In the American experience, nationhood has been a necessary condition of the success of the federal regime. Does this apply generally? What does it mean for the prospects of a federal regime for the European community? If nationhood is absent, or ambiguous, or conflicting, is there no substitute?

Pierre Trudeau dismisses nationhood as a basis for Canadian democracy. For him the substitute would be reason. That makes a good deal of sense. The case for economic union, indeed for that more perfect union envisaged in the recent government paper, *Shaping Canada's Future Together*, is

persuasive. To carry cultural particularism so far as to corrupt this union is grossly irrational.

The American framers also thought this way. The authors of the Federalist papers continually held out to their readers the prospect of greater freedom, opulence and power promised by the new form of government with its stronger central authority. Yet they were also acutely conscious of the fragility of reason. According to Madison, no matter how "rational" the design and operation of a government might be, such a scheme would "not find it a superfluous advantage to have the prejudice of the community on its side." His specific fear was that the main weight of popular sentiment would be on the side of localism, not nationalism. "The states would have 'the superintending care' of 'all the most domestic and personal interests' and their citizens would be bound by the ties of personal acquaintance and friendship and of family and party attachment."

Madison and Hamilton were confident that this imbalance would be corrected. The cause would be that "better administration" afforded by the federal government, meaning by "better administration" the whole broad spectrum of greater liberty, security and prosperity promised by the extended republic. In the course of time the habitual satisfaction of those interests would shift attachment away from the periphery and toward the center. You might call this a consumer's view of public affections.

James Wilson of Philadelphia, their colleague in the Federalist cause at the convention and during ratification, presented a complementary, but more robust vision. As ardent as his support of democracy as of nationalism, Wilson was the only founding father who expressed himself unequivocally in favor of "one man, one vote." The link between the two elements in his thought, democracy and nationalism, was his conception of how participation would transform values. As the extended republic witnessed the scale of choice of the voter, said Wilson, his preferences would be similarly transformed, generating "the most endearing connection among the citizens" and "the most powerful, and at the same time, a most pleasing bond of union between the citizens and those whom they select for their different offices and departments of government."

In Wilson's account, the expansion of emotional attachment occurs in the process of self-government and because of it. Citizens take to loving the country they are creating. This is a producer's rather than a consumer's view of public affiliation. Wilson, moreover, can make the greater claim to realism. Even such ardent patriots as Madison and Hamilton showed a certain intellectual timidity when it came to recognizing the powerful attachment that the modern democratic nation, not least the American, could produce among its citizenry.

To the question of whether reason can be a substitute for nationalism, therefore, the

answer of the American framers is No. Reason must rule, they say, but rationality is not enough to secure that result. A regime which seeks to embody the rational universals of liberal democracy must, according to their way of thinking, also enjoy the support of the public affections associated with nationhood, whether we call it that or not. (A not irrelevant aside: A Bill of Rights can help hold a community

"In the American experience, nationhood has been a necessary condition of the success of the federal regime."

together, but also it takes a fairly strong community to get by with this sort of uniformity imposed by judicial fiat.)

To conclude: In the light of this review, does the American experience with federalism have any relevance to the future of the European Community? Some have thought so. The most vivid expression I can recall was articulated by one of our graduate students some years ago. A Dotchman, he strongly supported European integration and around the time the Strasbourg parliament was being set up he and I occasionally talked about its long run significance. One day he rushed into my office full of enthusiasm and poured forth his vision of this first meeting as the decisive moment when the democracy of Europe,

like the Continental Congress, would meet to create its United States. In his passion for a democratic and federal Europe he was right to look to the Continental Congress for a promising analogy. In that body the Americans first spoke and acted as one people. Initially drawn very largely from informal and extralegal gatherings, the Congress directly governed individuals and localities, and in due course, responding to the requests of similar bodies of rebellious whigs, the Congress authorized them to form themselves into states, whose independence it declared and for which it initiated the formation of a federal government, culminating after the false start of the Confederation of 1781 in the Constitution of 1787. The analogy, however, did not hold. The American model of the formation of a federation does not tell us what the European Parliament is or what it is likely to become.

A quite different prospect was opened up by a lecture delivered a couple of months ago by Gerard Fitzgerald, a former prime minister of the Republic of Ireland, and in 1984 president of the European Council of Ministers. A strong supporter of further political integration, he spoke with approval and confidence of the continuing gravitation of legal powers to Brussels from the member states. According to his account, the receptacle of these increasing powers is a powerful bureaucracy and judiciary, confronting an anomic legislature and an indifferent electorate, ultimate authority resting with

a consortium of ministers from 12 countries, likely to double its membership in not too many years. He found that in the executive structure the Council and Commission effectively worked together, although with the preeminent role going to the Commission. His main concern was "the democratic deficit," consisting in the inability of the parliament effectively to challenge the executive. For the sake of democratic control of Community decision-making, he held that the parliament

must be given power to hold the Commission fully responsible to its "majority ideological stance." He lamented, however, the lack of attention given to this problem by Europeans. Nor did he say how such control by the legislature could be reconciled with the plenary legal authority of the Council of Ministers. Judging by his review, a Europe of nation-states held together by continual negotiation in the manner of federal-provincial diplomacy rather than by the legislation of a civic majority

of a European people seems to me a not unlikely future. Canada tells us more than the United States about the shape to be taken by the European Community.

This paper was presented at the conference "Federalism and the Nation State" sponsored by the Centre for International Studies and the International Business and Trade Law Programme in June, 1992.

RECENT RELEASE

The American Mosaic: The Impact of Space, Time, and Culture. By Daniel J. Elazar.

The American Mosaic presents Daniel J. Elazar's theory of American political behavior in a concise, accessible manner ideal for all students of political science. Drawn together here for the first time are the outlines of several major themes and concepts essential to Elazar's understanding of the way the U.S. political system works: American pluralism, historical change, federalism, urbanization and the metropolitan shift, and the forces of political culture.

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ANNUAL MEETING REPORT

ECONOMIC INTEGRATION IN FEDERAL TYPE SYSTEMS: CONFERENCE REPORT

by John Daley

It was an auspicious beginning to an international conference on economic integration. The first morning had seen the announcement in the media that Canada, the United States of America and Mexico has signed an expanded North American Free Trade Agreement. This illustrated an underlying motif of this conference, hosted by the Centre for Comparative Constitutional Studies at the University of Melbourne, and held together with a meeting of the IACFS on 13th & 14th August: the strength of the current global drive to eliminate trade barriers between states so that the collective federation is more internationally competitive, but matched by a global awakening to the costs of further integration, particularly loss of diversity and accountability.

The conference began by describing the Australian economic union. In her presentation, Dr. Helen

Williams, Associate Secretary of the Commonwealth/State Relations Secretariat in the Department of Prime Minister and Cabinet, perceived real progress recently, with reform to product and professional regulation, road and rail transport, electricity transmission and environmental controls. She noted that State government commitment to the "national interest" - as distinct from the "Commonwealth interest" - has been essential.

Although he did not belittle these reforms, Mr. Henry Smerdon from the Queensland Treasury looked back at "a period of lost opportunities." The Commonwealth had failed to relinquish a tax base to the States to alleviate vertical fiscal imbalance, and had not really reformed special purpose grants. Dr. Michael Coper, former member of the Inter-State Commission, then described the influence of the Constitution on the Australian economic union, concluding that "like

one's conscience, it's always there but its influence is intangible."

After the Australian overview, John Kincaid, Executive Director of the U.S. Advisory Commission on Intergovernmental Relations, presented the first of many international comparisons, with a paper originally titled, "Economic Union and Federal Diversity: Should a Coca-Cola Bottle Carry 62 Health Warnings and, If So, In What Language?" Kincaid compared consumership (the interest of a person in cheaper goods, and therefore a more integrated system) with citizenship (the interest of a person in more participation in decision-making and therefore a more diverse system). He described the hidden costs of increased integration in the United States over the last 30 years: compliance costs with environmental regulation (which now consume, for example, 10% of the budget of the city of Columbus, Ohio), federal

government overload, and increasing conflict between federal bodies and regulations.

The European model of regulatory integration, analyzed by Prof. Giandomenico Majone from the European University Institute in Florence, contrasted with the American model of federal pre-emption. Mutual recognition is followed by harmonization through central prescription of "essential requirements" such as "a toy must not be toxic to children" rather than detailed technical specifications. Majone outlined the limits to mutual recognition, perhaps not yet appreciated in Australia: market failure due to externalities, monopolies or lack of information (particularly for therapeutic products); and regulatory convergence too slow for producers locked into existing standards.

The second session considered regional redistribution. Spain is one of the few countries with a vertical fiscal imbalance of the same magnitude as Australia: the central government collects 80%, but only spends 60% of total government revenue. The resulting problems, described by Guillem Lapes-Casasnovas from the Institut d'Estudis Autonòmics Governamentals in Barcelona, in his paper on the Catalan experience of the Spanish financial arrangements, are familiar to Australians: regional governments perceived the redistribution as "free money," and hence are less responsible in their use of it.

Canada has the opposite situation: the federal government's revenue base is

declining, and it is responding by reducing redistribution and social welfare programs. Doug Brown from Queen's University argued that the failure to promote social and regional equity is weakening the social glue which binds Canada together.

Workshops on uniformity, regional equity and citizens' rights, chaired by Prof. Cheryl Saunders from the Centre for Comparative Constitutional Studies, Prof. Clif Walsh from the Centre for South Australian Economic Studies at the University of Adelaide and Prof. Ellis Katz from the Center for the Study of Federalism at Temple University, then preceded a plenary session. The emerging theme was that fiscal redistribution to promote regional equity is a common feature of federal systems. It may interfere with perfect economic integration, but it is generally perceived as worthwhile to promote stability, equity and citizenship.

Macroeconomic management of federal systems was the theme of the start of the second day's proceedings. Australian Senator Bob McMullan argued that vertical fiscal imbalance was a political not an economic issue. He saw macroeconomic management as the responsibility of federal governments and even their role is diminishing with internationalization of the world economy. He thought that States should concentrate more on microeconomic reform, particularly by harmonizing tax and regulatory regimes. He also identified accountability problems with innovations such as the new regulatory

body for non-bank financial institutions, and for special purpose grants which are not audited for effectiveness in meeting Commonwealth goals.

Prof. Dieter Biele from the Goethe University in Frankfurt contested Senator McMullan's view that vertical fiscal imbalance is not an economic issue. He suggested that the economic cost of decisions increases with centralization because preferences go unfulfilled. Furthermore, the lack of accountability created by vertical fiscal imbalance may be economically inefficient as there is less pressure to use resources properly. Dr. Henry Coleman, from the U.S. Advisory Commission on Intergovernmental Relations, then described how vertical fiscal imbalance is worsening in the United States as state power to tax is squeezed by the Supreme Court and federal legislation.

The final session dealt with international issues in economic integration, with presentations from the United Kingdom, New Zealand and Switzerland. While Prof. Murray Forsyth from the Centre for Federal Studies at the University of Leicester suggested that Britain had not grasped the implications of the federation of Europe because of its traditional hostility to a written constitution, his colleague, Daniel Wincott, examined the implications of the establishment of a European central bank.

The Hon. Hugh Templeton, a former New Zealand Cabinet minister, argued for an even closer Closer Economic Relationship between New Zealand and Australia, chief-

ly because both "need friends" in a world of growing trade blocs. The final speaker, Nicholas Schmitt from the Institute for Federalism at the University of Fribourg, described the problems for a highly decentralized federal state such as Switzerland joining another federation, the European Community. According to Schmitt, the Swiss cantons will inevitably give in substantial power, but the cost of this surrender must be

weighed carefully against the resulting economic benefit.

At the conference dinner, Prof. Daniel Elazar from the Jerusalem Center for Public Affairs spoke positively of the resurgence of federations around the world as a means of accommodating ethnic and cultural diversity. The international perspectives offered by this valuable conference showed that reconciling diversity with the need for integration, whilst retaining

accountable institutions is a challenge not just in Australia, but across the world, and that Australia has much to learn from close attention to the experience of other federal-type systems.

John Daley is a Research Fellow at the Centre for Comparative Constitutional Studies, University of Melbourne.

ANNOUNCEMENT

The Institute of Intergovernmental Relations at Queen's University has released its annual collection of articles on current issues affecting Canadian federalism, *Canada: The State of the Federation, 1992*, edited by Douglas and Robert Young. This volume provides fresh and timely commentary on the constitutional negotiations resulting in the Charlottetown Accord. It includes full chapter analyses of constitutional politics in Quebec, the public conferences of early 1992 and the role of the NDP in the debate. Shorter commentaries on several issues in the debate feature prominent analysts such as Stephane Dion, Jack Crampton, Alain Gagnon, Katherine Swington and Roger Gibbins. Other chapters cover the impact on the federal system of cultural policy in Quebec, the autonomy movement in the north and agriculture in the GATT negotiations. An overview chapter by the editors provides a complete review of the Canada Round to the first of September 1992, including a summary and analysis of the Charlottetown Accord. The volume concludes with the annual chronology of significant events in Canadian federalism and intergovernmental relations.

The price is \$29.00 per copy. To order, or for more information, please contact: The Institute of Intergovernmental Relations, Queen's University, Kingston, Ontario K7L 3N6, CANADA. Phone: 613/545-2030 Fax: 613/545-6868

FROM THE INSTITUTE DU FEDERALISME

A NEW CHALLENGE FOR FEDERALISM IN SWITZERLAND

by Nicholas Schmitt

On Sunday, December 6, 1992, after the longest and the most violent election campaign Switzerland has ever experienced, a slight majority of Swiss voters (al-

though a huge majority of cantons) rejected the Treaty about the European Economic Space. The vote marked a double gap: a first one between French-speaking and German or Italian-speaking

Swiss people, and a second one between town and country. Concerning the first gap, which is a very traditional one in Switzerland, it is the first time that this gap appears so clearly, even in a

bilingual canton like Fribourg, the French-speaking part of the canton accepted the Treaty and the German-speaking part rejected it. Of course, journalists tried to add fuel to the flames, forecasting a civil war in Switzerland. But fortunately, a lot of German-speaking people claimed they were also disappointed and apologized for the result.

But we should not forget that there is another gap, between towns, which are much more progressive and accepted the treaty, and country, which is much more conservative and rejected it (or accepted with little majority). For instance, some big German-speaking towns (as Bern,

Basle, Zurich) have also voted "yes."

The result of the vote means undoubtedly that Switzerland prefers to remain isolated. It also means that federalism has now a new challenge namely to try to throw bridges across those deep gaps in order to maintain peace and unity within the country. It finally means that all the studies made about the influence of European Integration on federal and cantonal law won't be of great use on January 1st, 1993. Nevertheless, it doesn't mean that all these discussions have lost their significance. Traditionally in Switzerland, due to the direct democracy, new trends take a

lot of time before being accepted by the voters. The right of vote for women, for example, has been widely rejected in 1989, before being accepted in 1991. It will be the same for the European Integration: the European idea is making progress throughout the population, and in a few years it will be accepted. At that time then, all these legal drafts will be brand new again.

But now - and this is also typically Swiss - the violence of the campaign, Europe and the Treaty, the gaps and the ghost of the civil war, all these matters have been completely forgotten and replaced by the worries due to the economic problems.

BOOK REVIEWS

Treatise on Belgian Constitutional Law. By Andze Alen (available through the Inter-University Study Center for Federalism, Rue de Namur, 48, 100, Brussels).

The student of international law or international politics should find *Treatise on Belgian Constitutional Law* to be helpful as a source to study the Belgian constitutional system or to use it as a comparative tool. The *Treatise*, edited by Andre Alen, is part of a series called the "International Encyclopedia of Law" covering about 70 countries of the world. Dr. Alen, professor of constitutional law at the Catholic University of Leuven and the State University of Ghent, is also the editor of the constitutional law portions of the entire encyclopedia.

The general introduction is a description of the Belgian constitutional history, the Belgian form of government,

and general geographic and demographic information. The introduction is followed by a five part discussion on various aspects of the Belgian political system.

The first part describes the sources of Belgian constitutional law and the hierarchy of the various legal instruments and norms; and demonstrates the importance of these instruments in understanding Belgian law. The coverage of the institutions of Belgian Law (treaties, the constitutions, legislation, etc.) is followed by sections dealing with their respective place in a hierarchy of law, a helpful feature in Alen's *treatise*.

From the sources of law, Alen moves on to discuss the actual form of government

and how it is based on the various institutions of law covered in the previous section. Alen goes on to discuss the state and its subdivisions in section three. In the fourth and fifth sections, Alen discusses the administration of justice and probations.

Alen has provided the reader with a substantial resource for the study of all aspects of Belgian law, and an excellent source from which to draw comparative studies with other constitutional systems.

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SECTION AWARD

The Section will present its annual award to an individual for his or her "significant contribution to the field of federalism and intergovernmental relations" at the 1993 APSA meeting in Washington, DC. Nominations should be sent by February 19, 1993 to: Dr. Michael A. Pagano, Political Science Department, Miami University Oxford, OH 45056 513/529-2610.

Your letter of nomination should include a brief statement explaining the candidate's qualifications and contributions. Previous award recipients have been Daniel J. Elazar (1990), Vincent Ostrom (1991), and Deil S. Wright (1992). The members of the 1993 Nominating Committee are Daniel J. Elazar, Sarah F. Liebschutz, Michael A. Pagano and Joseph F. Zimmerman.

FEDERALISM/INTERGOVERNMENTAL RELATIONS SYLLABI

The section wishes to form a Syllabi Committee to prepare a course syllabus or syllabi for the Teacher section of *PS* in 1994. If you would like to serve on this committee and participate in this project, please contact: Dr. Stephen L. Schechter, Department of Government, Russell Sage College, Troy, NY 12180, 518/270-2363

PS SYMPOSIUM ON FEDERALISM

Beverly A. Cigler, Daniel J. Elazar, Dale A. Krane, John Kincaid and Joseph F. Zimmerman are preparing articles for a symposium on federalism, which is tentatively scheduled for publication in the June 1993 issue of *PS*.

ATTENDANCE AT 1993 PANELS AND SECTION BUSINESS MEETING

Please plan to attend as many Section panels as possible at the 1993 APSA meeting. The Section has experienced a drop in the number of panels assigned to it for this year. Panel allocations are based, in large part, on attendance at panels at the previous year's meeting. According to APSA, we had a drop in attendance at the 1992 panels. Attendance at panels, therefore, is very important for the vitality of the Section. Please plan to attend the Section's business meeting as well. New people would be most welcome.

1993 APSA PANELS

The following is a preliminary list of panels sponsored by the Section on Federalism and Intergovernmental Relations. Several panels are incomplete. A finalized list will be submitted to the APSA in March. If you have any questions, please contact the Program Panel Chair, Beverly Cigler, at Pennsylvania State University, Harrisburg, Tel: 717/948-6050 Fax: 717/948-6320.

PANEL 1

TITLE:

Problems of Interstate Relations

CHAIR:

Joseph F. Zimmerman, *State University of New York at Albany*

PAPERS:

"Interstate Compacts: The Invisible Area of Intergovernmental Relations"

Patricia Florestano, *University of Baltimore*

"Child Support -- Interstate Dimensions"

Joseph F. Zimmerman, *State University of New York at Albany*

"Conflict Management in Interstate Water Relations"

Zachary Smith, *Northern Arizona University*

DISC:

Carl W. Sterberg, *University of Virginia*

PANEL 2

TITLE:

Contemporary Models of State-Local Relations: Preliminary Findings of the Center for the Study of Federalism-University of Nebraska Press Series of the Government and Politics of the American States

CHAIR:

John Kincaid, *Advisory Commission on Intergovernmental Relations*

PAPERS:

Four authors from four states, TBA

DISC:

Daniel J. Elazar, *Temple University and Bar Ilan University*

PANEL 3

TITLE:

States, Local Governments, and Changing Structures

CO-CHAIRS:

Platon N. Rigos, *University of South Florida*

Melvin B. Hill, Jr., *University of Georgia*

PAPERS:

"State-Local Structures in California"

Alvin Sokolow, *University of California at Davis*

"State-Local Structures in Michigan"

Carol Weissert, *Michigan State University*

"State-Local Structures in New Mexico"

John G. Breeding, *University of New Mexico*

"State-Local Structures in Oklahoma"

David R. Morgan, *University of Oklahoma*

"State-Local Structures in Pennsylvania"

Beverly A. Cigler, *Pennsylvania State University, Harrisburg*

PANEL 4

TITLE:

Intergovernmental Management and Regional Governance

CHAIR:

Herman L. Boschken, *San Jose State University*

PAPERS:

"The Intergovernmental Limitation of Community Economic Development: Theoretical and Empirical Concerns in the Management and Implementation of Development Policy"

Robert Agronoff and Michael McGuire, *Indiana University*

"The Changing Identity of Regional Governance: The Effects of Group Influence and Administrative Structure on Urban Transportation and Land Use Policy

Planning"

Joseph F. Coughlin, *Boston University*

"Strategies for Intergovernmental Coordination in Managing Growth"

*Judith E. Gruber, *University of California, Berkeley*

DISC:

Nelson Wikstrom, *Virginia Commonwealth University*

Andree Reeves, *University of Alabama-Huntsville*

*This paper has three other authors -- Judith E. Innes, Michael Neuman, and Robert Thompson -- who will not attend the conference. If there is a change and any decide to attend, the appropriate information will be submitted by March 1.

PANEL 5

TITLE:

Tensions and Adjustments Among People and Governments: The Perspective of Comparative Federalism

CHAIR:

TBA

PAPERS:

"Migration and the Union of Democratic States: A Study of European Political Integration in Comparative Perspective"

Rey Kosciowski, *University of Pennsylvania*

"Serb Irredentism and National Identity: A Comparison of Serb and French Expansions"

Jack May, *University College-Dublin*

"The Intergovernmental Politics of Immigration in the Federal Republic of Germany: An Identity Crisis"

Mark Cassell, *University of Wisconsin-Madison*

1993 APSA SHORT COURSE

The Clinton Administration and the Prospects for Reinvigorating Federalism Sponsored by the APSA Section on Federalism and Intergovernmental Relations

Join policy experts and Clinton administration representatives for an exciting and informative afternoon of briefings at the U.S. Advisory Commission on Intergovernmental Relations (ACIR) on the federalism policy initiatives of the new Clinton administration. This short course will address the following questions: How do new presidential administrations formulate and implement their federalism policy agenda and intergovernmental strategies? How does the first year of the Clinton administration compare with earlier administrations in terms of the formulation of its federalism agenda and the philosophical and practical considerations on which that agenda is based? (Former governors have occupied the White House for twelve of the past sixteen years.) What are the most significant areas to watch for the continuities and discontinuities between the Reagan-Bush and Clinton years in restructuring the intergovernmental system of federal assistance, regulation, and preemption? How are the answers to these questions affecting early steps by the Clinton administration to pursue some of the following policy "mandates for change:" rebuilding the economy; reducing the federal deficit; investing in the nation's infrastructure; providing affordable, universal health care; reforming the welfare system; educating America; and greening the markets?

This short course will be held at the new offices of the U.S. Advisory Commission of Intergovernmental Relations (ACIR), South Building, Suite 450, 800 K Street, NW, Washington, DC, Wednesday afternoon, August 25, 1993, 12:00 p.m. - 5:00 p.m. Registration fee (including lunch) is \$35 per person for APSA Federalism Section members (\$45 for Section non-members).

Registration is limited and will be accepted on a first-come, first-serve basis. To register for this short course (and to join the Section), please contact: Prof. Stephen L. Schechter, Political Science Department, Russell Sage College, Troy, NY 12180. Tel: 518/270-2363 Fax: 518/271-4545. Registration deadline is August 15, 1993, but meeting this deadline is no guarantee that space will be available.

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1993 APSA SHORT COURSE

The Clinton Administration and the Prospects for Reinventing Federalism Sponsored by the APSA Section on Federalism and Intergovernmental Relations

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The Federalism Report is published by the Center for the Study of Federalism,
Temple University, 1616 Walnut Street, Suite 507, Philadelphia, PA 19103

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