THE DEVELOPMENT OF INTERGOVERNMENTAL RELATIONS IN THE PROVINCE OF BRITISH COLUMBIA

by

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Abstract

This thesis examines the development of federal-provincial relations in British Columbia in the areas of fiscal federalism, the economy, and the constitution. From an historical survey of federal-provincial interactions in these areas provincial developments are found to correspond to key periods in the development of the structures of intergovernmental relations within other Canadian governments. As is the case with those other governments, the British Columbia developments are explained by the increasing impact economic and social development issues have had on essentially static federal-provincial constitutional jurisdictions. However, a gap is found to exist in the case of B.C. between the time such issues arose in the immediate post World War II period and the time the provincial government began addressing them on a systematic intergovernmental basis in the mid 1970's. In order to understand this gap the development of the internal organization of the provincial government is examined and the types of administrative agencies established to conduct its intergovernmental relations are discussed. From this analysis it emerges that such internal administrative factors as the tradition of a strong Premier and Cabinet have significantly influenced the conduct and effectiveness of the province's intergovernmental relations.
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I. INTRODUCTION: CANADIAN FEDERALISM AND THE DEVELOPMENT OF INTERGOVERNMENTAL RELATIONS

No federation is able to ignore the interrelationships of its constituent parts. Some form of communication between central and regional governments is a basic prerequisite of a federal system and every federation has some sort of machinery for accomplishing this task. The manner in which this basic structural need is met, however, can vary significantly between federal states and over the course of development of individual federations.

In Canada, the growth and development of intergovernmental relations has usually been explained in terms of the interaction of socio-economic factors with the basic federal structure of the state. The most common explanation of the growth of the structures and processes of intergovernmental relations in the federal government, for example, has given primary consideration to the impact on those relations made by the development of the welfare state. It has often been hypothesized that the gradual adoption by the federal government of the responsibility for social welfare has necessitated the introduction of programs which have transcended established federal-provincial jurisdictions and has required the development of an elaborate network of intergovernmental co-ordinating conferences and
committees.¹ Such socio-economic analyses may explain the
general dynamic of the growth of intergovernmental relations but
do not provide any insight into the actual workings of those
relations. On the other hand, analyses which have focused on
the actual machinery of intergovernmental relations in Canada
have tended to ignore the reasons why such machinery developed
in the first place.² The necessity of combining both socio-
economic and public administrative factors in an analysis of
intergovernmental relations in a federal state was pointed out
as early as 1964 by Donald Smiley, who noted that:

It is plausible to suggest that the increasing range
of public activities and the growing interdependence
of modern life brings about almost inevitably a growth

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¹ R.M. Burns, "Co-operation in Government, in Canadian Tax
Journal, Vol 7, no 1, Jan-Feb 1959 pp. 5-15; Gerard Veilleux,
The Machinery for Intergovernmental Cooperation in Canada,
unpublished MA Thesis, Carleton University, Ottawa 1968; Gordon
Robertson, "The Role of Intergovernmental Conferences in the
Decision-Making Process," in R. Simeon, ed, Confrontation or
Collaboration: Intergovernmental Relations in Canada Today
78-88; and Richard Simeon, "Intergovernmental Relations and the
Challenges to Canadian Federalism" in Canadian Public

² See for example, Kenneth Kernaghan, The Power and Responsibility
of Intergovernmental Officials in Canada Paper presented to the
Annual Conference of the Institute of Public Administration of
Canada, Winnipeg, August 31, 1979 and Richard J. Schultz,
Federalism, Bureaucracy, and Public Policy: The Politics of
Highway Transport Regulation McGill-Queen's Press, Montreal
1980.
in intergovernmental relations in a modern federation. However, what might appear to the observer as the need for articulation between the two levels does not ensure that this need will be met.³

In other words, while an analysis concentrating on socio-economic developments establishes the importance of those developments to the development of intergovernmental relations, it does not in itself explain why specific types of intergovernmental machinery were developed at specific times to administer these relations. In order to fully evaluate the historical development of intergovernmental relations in a federal state both the economy and administration of the state must be examined.

In the case of Canada, such an evaluation can be made by combining the two types of analyses identified above. Gerard Veilleux, for instance, has identified three periods in the history of the development of Canadian intergovernmental relations by examining the different types of administrative machinery used at different times by federal and provincial governments to communicate with each other.⁴

³ Donald V. Smiley, "Public Administration and Canadian Federalism", in Canadian Public Administration, Vol 7 no 3 1964, pp. 372.

According to Veilleux, at the time of Confederation the need for some form of intergovernmental communication was clearly recognized by the federal government. This need was institutionalized through the appointment of Lieutenant Governors charged with the maintenance of federal-provincial relations, and through the creation of a Secretary of State for the Provinces.\(^5\) This period of federal dominance of federal-provincial relations had ended by 1887. In 1873 the Secretary of State for the Provinces was merged with the Department of the Interior, while the Lt. Governor's exclusive right to communicate between governments was challenged by the provincial rights movement and essentially disappeared with Laurier's government.\(^6\)

From 1887 onwards intergovernmental relations developed through meetings of politicians or officials convened to discuss matters concerning either federal-provincial or interprovincial


\(^6\) On the importance of the provincial rights movement see Ramsay Cook, Provincial Autonomy, Minority Rights and the Compact Theory, Studies of the Royal Commission on Bilingualism and Biculturalism no.4, Queen's Printer, Ottawa, 1969.
relations. The pattern which emerged in this era was one of irregular political meetings and a series of more regularized, if essentially ad hoc, meetings between committees of officials. Dissatisfaction with the irregular nature of these meetings led to repeated calls by federal and provincial officials and politicians for the establishment of more permanent committees and secretariats. In 1937 the possibility of constructing a more effective intergovernmental system was considered by the Royal Commission on Dominion-Provincial Relations. The Commission undertook an inventory of activities in the federal-provincial arena and listed nineteen main areas of common intergovernmental interaction. These included the constitutionally entrenched fields of immigration and agriculture, as well as conservation, health, statistics, unemployment relief, administration of justice, regulation of companies, fisheries, labour, insurance regulation, old age pensions, tourism, and advertizing.

A third stage of intergovernmental relations in Canada was brought about in the 1960-1982 period through the development of

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8 J.A. Corry and Wilfred Eggleston, Administrative Co-ordination Between Dominion and Provincial Governments, Royal Commission on Dominion-Provicial Relations, Mimeo Ottawa, December 1938, and J.A. Corry, Difficulties of Divided Jurisdictions, Royal Commission on Dominion-Provincial Relations Appendix 7, King's Printer, Ottawa, 1939.
specific administrative agencies designed to handle intergovernmental affairs. This stage was initiated in 1961 by the Lesage government in Quebec which created the first provincial Ministry specifically responsible for handling the province's relations with other governments, both foreign and Canadian. By 1982 all the governments in Canada had developed some such agency.9

Such a chronological analysis of Canadian intergovernmental administrative structures, when read in conjunction with the socio-economic analysis put forward earlier, provides a satisfactory description of the development of intergovernmental relations in Canada. That is, in the case of the Canadian federation, intergovernmental relations can be seen to have developed through the interaction of three main factors. Firstly, the federal nature of the country established a basic structural need for some form of federal-provincial interaction. Secondly, the growth and expansion of the economy and the state resulted in the need for increasing interaction. Thirdly, the internal organization of the federal and provincial governments determined the manner in which this increasing need has been met.

It is the aim of this thesis to undertake a case study of the development of intergovernmental relations in the province of British Columbia. From the analysis presented above it is evident that three steps should be followed. Firstly, the history of the province's interaction with the federal government over such structural issues as fiscal federalism and the constitution will be examined. Secondly, the nature of the provincial economy will be examined to determine in what way its development has influenced the development of intergovernmental relations in the province. Thirdly, the specific administrative machinery developed to deal with intergovernmental relations will be examined in order to determine its impact on meeting the province's structural and economic goals. Once these steps are taken, a general picture of the development and content of British Columbia's interaction with the other governments of the Canadian federation will emerge and conclusions can then be drawn regarding the effectiveness of the province's administrative machinery in furthering its intergovernmental ends.
II. BRITISH COLUMBIA AND THE STRUCTURE OF CANADIAN FEDERALISM

In the early years of Confederation, questions of the proper distribution of authority and responsibility between the federal government and the government of the Province of British Columbia were dealt with through the frequent use of federal powers of reservation and disallowance.

Provided for under sections 55 and 56 of the British North America Act (as applied to the provinces under section 90), the federal power to withhold assent to provincial legislation or disallow provincial bills amounts in theory to a federal veto over provincial legislation. Forty two British Columbia bills were disallowed and twelve others were reserved by the federal government between 1871 and 1925. Only 112 provincial bills were disallowed and sixty-nine bills reserved in all of Canada between 1867-1955.¹⁰

Three main periods of federal-provincial activity emerge from the lists of disallowed and reserved British Columbia bills presented in Appendices A and B.

Between 1871 and 1882 a total of twelve bills were

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disallowed. These dealt with matters relating to the proper distribution of federal and provincial powers including the rights to appoint judges, incorporate companies, raise taxes and regulate trade and commerce. Six provincial bills were reserved during the same period dealing with issues concerning the implementation of the Terms of Union, most notably with matters concerning jurisdiction over land grants made to railway companies by the federal government.

Between 1883 and 1908 the debate over the Terms of Union died down and the major intergovernmental issue became the distribution of powers between the two levels of government as the provincial government began to demand the right to control British Columbia's social and economic development. Seven bills were disallowed between 1883 and 1898 including two provincial bills promoting north-south railway construction in opposition to national policy. Between 1898 and 1908 the federal powers of reservation and disallowance were exercised on twenty-six occasions. Twenty-four provincial bills were disallowed, many of them two or three times, as the two levels of government clashed over oriental immigration and employment rights. Provincial acts restricting oriental immigration were disallowed five times in various forms while acts restricting oriental employment rights were disallowed nine times. Acts relating to the two subjects were also reserved on two occasions.

Following 1908 the federal powers were used much less frequently and by 1920-1921 were abandoned. By 1900 the federal government had evidently encountered a situation where the
extended use of its veto powers resulted in diminishing returns when faced with a provincial government determined to proceed with its own policies. Faced with repeated provincial attempts to pass the same bills, the federal government was forced into repeatedly disallowing the bills and then finally reserving them, and on occasion was even forced to reserve the same bill twice. Although a sort of "status quo" had evidently existed from the province's entrance into Confederation in 1871 until 1898, clearly by the turn of the century the province had grown dissatisfied with the established limits of federal and provincial jurisdictions. When issues affecting the future economic and social development of the province arose around the turn of the century a new understanding of the limits of federal and provincial power became necessary.

The two governments turned to the courts and in a series of cases brought before the Judicial Committee of the Privy Council and the Supreme Court of Canada arrived at a second "entente" delimiting federal and provincial powers. From the list of cases presented in Appendix C it is apparent that although the extensive use of the courts began in 1889 their peak usage followed the collapse of the federal powers of reservation and disallowance after 1900. Twenty-three of the thirty-nine cases involving British Columbia and the federal government between 1871-1955 took place between 1900 and 1939.

Between 1889 and the First World War eight cases were heard, almost all of which dealt with the limits of federal and provincial powers. In five of these cases, the decision went in
favor of the provincial government. Only the federal jurisdictions over fisheries and public harbours were completely upheld by the courts. Between the First and Second World Wars seventeen cases were heard. Almost all dealt with the establishment of criteria to mark the limits of federal and provincial control over the economy of the province. The primary distinction made in 1916 between provincial control of intra-provincial trade and commerce and federal control over inter-provincial trade and commerce served as the basic yardstick by which many of the cases were measured. Among the cases decided in this manner were those dealing with the definition of a royalty, the definition of a direct and indirect tax, the question of taxes affecting inter-provincial and export trade, and the question of taxes and penalties imposed to aid marketing boards. Between 1939 and 1955 only four cases were heard. These dealt with several issues including the definition for taxation purposes of a corporation's place of residence, and the validity of federal wartime emergency Orders in Council.

Thus as far as British Columbia's relations with the federal government over constitutional issues are concerned two distinct periods emerge during the period 1871-1955. In the first period between 1871 and 1898 issues arising out of the Terms of Union were contested but the province never seriously challenged the use of the federal veto over provincial legislation. Between 1898 and 1939 the province challenged the untrammeled federal right to dictate provincial policy and forced the question of the proper distribution of federal and
provincial powers to the courts. During this period the federal powers of reservation and disallowance fell into disuse and the courts established a new federal-provincial *modus vivendi* based on the distinction between provincial control over intra-provincial issues and federal control over inter-provincial ones.

This struggle over the distribution of powers after the turn of the century was paralleled by a federal-provincial struggle over the proper distribution of fiscal resources. Using the forum of federal-provincial and interprovincial meetings, successive British Columbia governments embarked on campaigns for 'better terms' which persisted throughout the province's first century of Confederation. These campaigns varied only according to the partisan relationship existing between the provincial and federal governments and, most importantly, according to the precedents set by similar campaigns launched in other provinces.¹¹

Successive governments claimed that because of the development of an export-oriented, resource-based economy British Columbia had benefited little from the Canadian economic union. They insisted, for the same reason, that the province had contributed more than other provinces to federal revenues through customs and excise duties. Successive governments also argued the province's mountainous terrain made the provision of

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transportation and communication links, and thus most government services, more expensive in B.C. than in any other province. On numerous occasions the province demanded a reimbursement of the excess monies it claimed it had sent to the federal government and an increase in direct federal subsidies to make up for the higher costs it incurred providing services to the public.\textsuperscript{12}

B.C. first entered into federal-provincial and interprovincial conferences at the turn of the century armed with these fiscal claims. However neither the federal nor the other provincial governments recognized the need for anything more than a token one-time lump-sum payment to the province. The province attempted to appeal its case to Imperial authorities but received little aid in London. It soon turned back to the federal government and successfully appealed for the creation of a Royal Commission to examine its positions. Although the province appointed its representative to the Commission in 1913, with the intervention of the First World War the Commission never began deliberations. In the meantime, the intervention of the federal government into the direct taxation field during the First World War had generated another provincial grievance as the province had operated its own provincial income tax scheme since 1876 and disliked having to

\textsuperscript{12} Wilfred Eggleston and C.T.Kraft, "Dominion-Provincial Subsidies and Grants" Study Prepared for the Royal Commission on Dominion-Provincial Relations King's Printer, Ottawa, 1939.
share the field.\textsuperscript{13}

The province brought its grievances to the Rowell-Sirois Commission but the Commission, citing a lack of any statistical evidence to demonstrate that the province had in fact incurred higher costs or lost revenues as a result of joining the Dominion, dismissed them all. The Commission upheld the decisions of previous federal-provincial and inter-provincial conferences which had recommended a one-time lump-sum payment to the province as full settlement of its claims.\textsuperscript{14}

By 1939 the provincial position on federal-provincial fiscal arrangements consisted of essentially three main points:

1. Federal-provincial transfers should be cost-oriented rather than revenue-oriented;

2. Revenues raised in a province should stay there; and

3. The primary basis of any transfer system should be that a province be able to raise whatever revenues it requires to meet its expenditure needs.

After the Second World War the province continued to press

\textsuperscript{13} A. Milton Moore, J. Harvey Perry and Donald I. Beach, The Financing of Canadian Confederation: The First 100 Years Canadian Tax Foundation, Toronto, 1966 pp. 3 and Province of British Columbia, Claims for Readjustment of Terms of Union, King's Printer, Victoria 1935.

these three basic demands but began to identify fiscal issues with the more general question of the future economic development of the province. Provincial governments began to demand more and more control over revenues raised in the province in order to better control the direction of the provincial economy.

The first major federal-provincial meeting after the 1945 Conference on Reconstruction was held in 1955. As had been its practice at such conferences over the course of Confederation, British Columbia continued to press its demands for a larger slice of the fiscal pie. The only non-fiscal recommendation made by W.A.C. Bennett at the meeting concerned the possibility of establishing more systematic structures for federal-provincial interaction. He suggested creating a "fact-finding" and "consultative" continuing committee of technical officers of federal and provincial governments which would pool information, discuss fiscal and economic trends and prepare reports for future federal-provincial conferences.¹⁵

Discussing the 1957 federal-provincial Tax Rental negotiations, R.M. Burns describes Bennett as pressing for increased federal assistance in a number of areas including work programs to relieve unemployment, low interest loans for municipalities, a national health program, broadened unemployment assistance, a national development program and

federal aid to post-secondary education. In 1960 Bennett increased his demands for federal assistance to the province, calling on the federal government to provide direct assistance for provincial economic development initiatives. He called for increased federal government leadership, especially in the areas of trade and transportation infrastructure, and reasserted the need for co-operative federal-provincial approaches to resolving the problems facing British Columbia and Canada. In 1966, when the entire Canadian tax system was under investigation by the Carter Royal Commission and its intergovernmental aspects by the Tax Structure Committee, Bennett told the Committee that given the depressed world economic situation, the most important issue of fiscal federalism had become "to evolve planning that will ensure unhindered nation-wide economic development". Bennett clearly specified that such planning should be provincially led, and reiterated B.C.'s traditional demand that it be given more funding to make up for its higher costs.


17 W.A.C. Bennett, Brief Presented to the Plenary Session of the Federal-Provincial Conference Ottawa October 26, 1960.

In 1968 Bennett's proposals intended for the constitutional conference planned for that year focused on the demand that the federal government withdraw from shared tax fields in order that "the capacity of each government to tax ... be sufficient for each government to discharge its constitutional obligations." He developed a proposal for restructuring the Canadian federation which envisioned B.C. as one of five regions of Canada provided with authority over residual powers and increased representation in the federal parliament. This demand for a major restructuring of the federation extended to its major institutions. Bennett insisted that the Senate had failed to fulfill its original purpose of representing the regions of Canada and suggested that it should be restructured, taking into account his five region conception of the country, in order to effectively accomplish this purpose. He also called on the federal government to endorse the concept of the delegation of legislative powers between levels of government.

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19 W.A.C. Bennett, Proposals of the Province of British Columbia on the Constitution of Canada December 1968, Queen's Printer, Victoria, 1968 pp. 11-12.

20 On this, and on the affect the Bank of British Columbia controversy may have had on sensitizing Bennett to the need for increased provincial control over national policy, see Peter Ruff Johannson, B.C.'s Intergovernmental Relations with the United States, Ph.D. Thesis, John Hopkins University, Baltimore, 1975 pp. 134-138 esp.

In 1970, Bennett reiterated his 1968 proposals for a regional restructuring of federal institutions and added to his demands the need for reform of major federal regulatory agencies and monetary institutions such as the Bank of Canada. However by 1970 he had begun to question the utility of the constitutional exercise because of the failure of the participants to agree on what the required degree of unanimity would be for any changes to be accepted.\(^{22}\) British Columbia participated very little in the constitutional review process after 1970 either at the political or administrative levels, and demands for financial concessions from the federal government again began to dominate the content of the province's intergovernmental positions.\(^{23}\)

The New Democratic Party government which followed Bennett in 1972 did not significantly affect the conduct of British Columbia's federal-provincial relations.

At his first major intergovernmental conference, Dave Barrett stated that it was:

\begin{quote}
a fitting occasion for me to assure you that the
\end{quote}


\(^{23}\) BC sent one of the smallest delegations of officials to the meetings of the continuing committees on constitutional matters. See the lists of officials contained in Canadian Intergovernmental Conference Secretariat, The Constitutional Review 1968-1971 Information Canada, Ottawa 1974 pp 249 esp.
The Government of British Columbia is firmly committed to the concept of a united Canada and to the principle of the Canadian Confederation... my government desires to bring a new direction for British Columbia inside the Canadian Confederation and looks forward to open lines of communication with the federal government and provincial governments to ensure the co-operation and understanding which is necessary to meet the challenges of the day.  

Despite such statements, however, the Barrett government quickly became embroiled in many of the same federal-provincial disputes as had the government of W.A.C. Bennett. These included battling the federal government over the alteration of taxation rates without notification, agitating for more provincial control of the banking industry, and clashing over energy pricing and native land claims issues.

The only major change in British Columbia's positions was the implicit dropping of the notion of B.C. as a separate region. Under the NDP the province began to participate in interprovincial meetings with other western provinces, beginning with the Western Economic Opportunities Conference of 1973. At these meetings the Barrett government moved to integrate its own position with those of the other Western Premiers. Contrary to

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its stated intentions of co-operating with the federal government, however, this move appears to have been intended as a measure to increase the province's ability to coerce the federal government through joint action with other provincial governments.\textsuperscript{26} As Peter Johannson concludes,

Dave Barrett's handling of B.C.'s relations with Canada differed only in method and degree from those of W.A.C. Bennett. There is far more in common than there is in conflict between their approaches to federal-provincial relations...the similarities far outweigh the differences.\textsuperscript{27}

In his first statement on the constitution in November 1976, W.R. Bennett reiterated many of the positions held by preceding British Columbia governments. He chose, however, to emphasize the position first enunciated by W.A.C. Bennett in 1968 that the Canadian constitution must be re-adjusted so as "to recognize, in constitutional terms, the rightful place which British Columbia now occupies in Canada".\textsuperscript{28} Bennett claimed B.C. was "woefully underrepresented at the national level" and


suggested such "basic constitutional readjustments" as increased provincial representation in the Senate and the Supreme Court, and the right to make appointments to such federal boards and commissions as the Canadian Transport Commission, the Canadian Radio and Television Commission, the Canadian Development Corporation, the Canadian Broadcasting Corporation, and the Bank of Canada. He declared his support for patriating the British North America Act with an amending formula but declared if an amending formula reflecting the five-region nature of the country was not agreed upon then the Act should be patriated with a rider ensuring changes to provincial rights would require unanimous provincial approval.

The new Social Credit administration also continued to support the NDP initiative opening up relations with the other Western provinces. British Columbia pressed for the establishment of the Western Premier's Task Force on Constitutional Trends and served as its chair, using this position to assert its own views on the proper scope and nature of federal-provincial relations. The Task Force was intended to investigate the concern felt by the Western Premiers in the spring of 1976 about:

the increasing tendency, perceived at that time, of the Government of Canada initiating federal legislation in subject areas which historically and constitutionally have been considered to be within the

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The Task Force conducted a ministry-by-ministry survey of active federal-provincial issues and found, not surprisingly, that the most contentious federal policies were in the areas of natural resources and economic development, housing, manpower and immigration, and questions affecting the administration of justice. Especially of concern to the provinces was the increasing number of interventions by the Government of Canada at the Supreme Court in opposition to provincial legislation.

After 1976 the province began directly to link demands for fiscal and institutional reform with issues of economic development and provincial control over policy and planning. In 1977, for example, Bennett told the provincial premiers of his concern that:

> In Canada, the major levers of economic policy i.e. tariffs and trade policy, international and interprovincial transportation, monetary policy and unlimited taxing powers - are within federal jurisdiction. Thus regional governments must live with the results of many policy measures that are largely beyond their control. When such national measures do not complement the objectives and aspirations of a province's attempts at pursuing an economic development strategy it may be frustrated.\(^3\)\(^0\)

In the provincial government's estimation, resource-based provincial economies suffered from federal fiscal and monetary

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policies, and the solution which the government now put forward was to have "provincial input into the design of the parameters of fiscal and monetary policies". This was to be accomplished by involving the provinces in "early and meaningful conservation" leading up to federal planning in these areas.\(^3^1\)

The second report of the Western Premiers Task Force on Constitutional Trends addressed itself specifically to the consideration of mechanisms by which such increased provincial input into federal policies could be achieved. After meeting with officials of the Federal-Provincial Relations Office in Vancouver in late February 1978, the Task Force concluded any mechanism should have two aims:

1. To head off future federal-provincial frictions, duplications and possible constitutional intrusions, and

2. To deal with problems and grievances once they have occurred.\(^3^2\)

To deal with the first goal, the Task Force recommended restructuring the Federal-Provincial Relations Office to make it more sensitive to the desires and plans of the provincial governments. In dealing with the second goal, the Task Force suggested a body composed of provincial intergovernmental

\(^3^1\) Ibid, pp. 14 and 106.

relations officials should meet regularly with federal intergovernmental relations officials to review and consult on existing and possible future federal-provincial conflicts.

By the time the federal-provincial conferences on the economy and the constitution were held in the spring and fall of 1978, British Columbia had developed a set of proposals consistently urging the major restructuring of the national economy and the federal government. In February the Bennett government prepared an elaborate series of position papers for the First Ministers Conference on the Economy outlining its stand on trade liberalization and the role of the government sector in the economy. In May Bennett broke down the problems Canada faced along the twin axes of the economy and the constitution. The answer Bennett proposed to these problems was the concurrent development of increased trade liberalization and more provincial input into the national decision-making policy process. In October the provincial government placed its constitutional package before the First Ministers Conference on the Constitution. This series of papers subtly shifted the emphasis of the pre-1976 positions inherited by the government. For, while many of the positions taken by the province had their roots in W.A.C. Bennett's demands for administrative and


institutional reform, by 1978 they had become demands not simply for regional autonomy or the ability to veto federal legislation which adversely affected the province, but for actual direct provincial input into the federal policy-making process.

The cornerstone of the provincial constitutional proposals remained the proposal to reform the Senate. This time, however, this demand was coupled with demands for the creation of intergovernmental bodies and a new distribution of powers which would leave provincial executives in the position of controlling the content of much federal legislation. The province now tied internal initiatives such as the 1976 creation of a provincial Office of Intergovernmental Relations and interprovincial initiatives such as the Western Premiers Task Force on Constitutional Trends with proposals to restructure intergovernmental relations in Canada through the institution of an Annual Conference of First Ministers, complete with a permanent Federal-Provincial Liaison Committee on National Policy. Through these proposals Bennett hoped to achieve the development of a pronounced form of executive federalism in which the leaders of the respective governments of Canada, and

35 Province of British Columbia, Executive Council, British Columbia's Constitutional Proposals: Paper No. 3 - The Reform of the Canadian Senate Queen's Printer, Victoria, September 1978.

not the federal parliament, per se, would make national policy. Despite provincial claims to the contrary, it was the proposal to create a Council of First Ministers and not the proposals for Senate reform which formed the actual core of the British Columbia proposals on the constitution. This was implicit in the description the province provided of the relationship it envisioned existing between a reformed Senate and the proposed Council of First Ministers. According to a provincial position paper on the subject, a reformed Senate would not take the place of established federal-provincial consultative procedures. Rather the province stated:

the existence of such a provincially oriented body would have the effect of encouraging consultation and co-operation between governments at the policy formulation stage to a greater extent than is presently the case. The government of Canada would be aware of the powers of the reformed Senate and would, we believe, thus be more inclined to seek federal-provincial understanding at an early stage on matters of significant federal-provincial import.\(^\text{37}\)

This new trend in British Columbia's attitude towards federal-provincial relations surfaced again in March 1979 in the Third Report of the Western Premiers Task Force on Constitutional Trends. The only new proposal made by the Task Force in this report concerned the consideration of British Columbia's proposals on Senate reform. Here the intergovernmental aspects of the province's hopes for such an

\(^{37}\text{Ibid pp. 16.}\)
institution were clearly spelled out. The Task Force stated that a reformed Senate, if it was:

a built-in institution such as is proposed, acting as an ongoing mechanism, would compel consultation and co-operation between governments and would provide early provincial government input into the policy-making process, thus providing the ideal means to head off day to day federal-provincial conflict and intrusion in the long term while at the same time ensuring that the views of all constituent members of the federation are brought to bear on the development of national (as distinct from federal government) policies.  

Clearly the position of British Columbia at this time was to introduce a provincial veto at the national level. It expected such a veto to force the federal government to adhere to the results of federal-provincial conferences of first ministers and engage in a more active process of consultation with the provinces before major national policy initiatives could be undertaken. Further evidence that this was the case can be found in the moves the province made in September 1980 in an attempt to surmount opposition to its proposals. Faced with the refusal of the other provinces to support its five-region proposal, British Columbia agreed to the creation of a Council of the Provinces which essentially combined the province's Senate reform and intergovernmental relations proposals. The new provincial proposal called for an upper house with equal provincial representation and members appointed by the

\footnote{Western Premiers Task Force on Constitutional Trends Third Report March 1979.}
provincial governments. British Columbia's essential aim throughout the entire constitutional process was described by Bennett before the Special Joint Committee on the Constitution in January 1981. He said the province's theme had been:

For greater representation in these central institutions. We do not want alienation continued or compounded. We do not want separation. We want to be more involved in the councils of decision-making in Ottawa.

In summary, it is clear that although he inherited most of the constitutional positions developed by W.A.C. Bennett, W.R. Bennett combined these positions with the interprovincial initiatives taken by the NDP government during the 1972-1975 period and after 1976 subtly shifted their emphasis. Instead of advocating positions which were aimed at providing the province with maximum autonomy in its decision-making, after 1976 British Columbia consistently advocated a set of proposals for economic and institutional reform which would give it direct input into the formation of federal policy and would give it and the other provinces significant control over the federal government. As Ruff put it, throughout the period, for Bill Bennett:

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Immediate policy concerns are to be met by an insistence on the province's defence of its existent constitutional powers, coupled with long term political institutional reforms to provide for direct provincial input at the centre. In this sense British Columbia has begun to assert its interests not by isolationism but by a more extroverted approach to the federal system. It is willing to respect power at the centre if that power is directly subject to regional-provincial input and veto power.  

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III. THE ECONOMICS OF INTERGOVERNMENTAL RELATIONS IN BRITISH COLUMBIA

In this chapter, the reasons behind the post-war development of a provincial concern for a new delimitation of federal and provincial powers will be examined. As hypothesized in the introduction, one of the key factors in the development of any government's intergovernmental relations is the structure of its economy. This chapter examines the economy of the province of British Columbia and the relationship of political and economic factors to the development of new provincial intergovernmental positions after World War II. To this end, tables are provided outlining the structure of the provincial economy and the extent of its domination by primary resource industries and especially the forest industry. Statistics are also provided demonstrating the extent to which the province relies on exports of these primary resources. Finally, the constitutional situation with regards to jurisdictional control over the provincial resource base and over export and trade policy is examined in order to determine what impact the structure of the provincial economy has had on the content of provincial intergovernmental relations.

The statistics in Table I outline the key elements of the British Columbia economy in terms of percent Gross Domestic Product (GDP). Between 1970-1978, primary resource industries accounted for about ten percent of GDP, an importance matched by transportation and communications production. Manufacturing and services each account for about twenty percent of GDP, while
finance and sales make up about twenty-five per cent of provincial production.

### Table I - British Columbia Gross Domestic Product at Factor Cost 1970-1978

(figures in $000,000 in constant 1971 dollars)

<table>
<thead>
<tr>
<th></th>
<th>70</th>
<th>71</th>
<th>72</th>
<th>73</th>
<th>74</th>
<th>75</th>
<th>76</th>
<th>77</th>
<th>78</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agr.</td>
<td>142</td>
<td>131</td>
<td>124</td>
<td>132</td>
<td>139</td>
<td>132</td>
<td>149</td>
<td>176</td>
<td>170</td>
</tr>
<tr>
<td>Forestry</td>
<td>272</td>
<td>243</td>
<td>196</td>
<td>252</td>
<td>341</td>
<td>283</td>
<td>337</td>
<td>322</td>
<td>288</td>
</tr>
<tr>
<td>Fish/Trapping</td>
<td>34</td>
<td>34</td>
<td>36</td>
<td>39</td>
<td>39</td>
<td>29</td>
<td>42</td>
<td>41</td>
<td>43</td>
</tr>
<tr>
<td>Mining/Oil/Gas</td>
<td>257</td>
<td>277</td>
<td>320</td>
<td>413</td>
<td>309</td>
<td>263</td>
<td>276</td>
<td>285</td>
<td>273</td>
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<tr>
<td>Agr.</td>
<td>142</td>
<td>131</td>
<td>124</td>
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<td>149</td>
<td>176</td>
<td>170</td>
</tr>
<tr>
<td>Forest</td>
<td>272</td>
<td>243</td>
<td>196</td>
<td>252</td>
<td>341</td>
<td>283</td>
<td>337</td>
<td>322</td>
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<td>Fish/Trapping</td>
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<tr>
<td>Mining/Oil/Gas</td>
<td>257</td>
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<td>Agr.</td>
<td>142</td>
<td>131</td>
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<td>Forest</td>
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<td>Fish/Trapping</td>
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<tr>
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<td>257</td>
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<td>320</td>
<td>413</td>
<td>309</td>
<td>263</td>
<td>276</td>
<td>285</td>
<td>273</td>
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</tbody>
</table>

These statistics also indicate the extent to which provincial manufacturing is dominated by the sawmill and pulp and paper industries. These two industries alone account for 50 percent of the manufacturing in British Columbia and when the volume of forestry related manufacturing is added to the initial forestry/logging figure it becomes evident that between seventeen and twenty-four percent of the total provincial Gross Domestic Product during this period was generated by the forest industry. (see Table II)

Table II - Forestry Related Production at Selling Value and British Columbia Gross Domestic Product at Market Value 1970-1978

(Figures in $000,000 in current dollars)

<table>
<thead>
<tr>
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<th>70</th>
<th>71</th>
<th>72</th>
<th>73</th>
<th>74</th>
<th>75</th>
<th>76</th>
<th>77</th>
<th>78</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Domestic Product</td>
<td>9463</td>
<td>10500</td>
<td>11975</td>
<td>14206</td>
<td>16685</td>
<td>18357</td>
<td>22223</td>
<td>25517</td>
<td>28202</td>
</tr>
<tr>
<td>Forestry Related Products</td>
<td>1760</td>
<td>1869</td>
<td>2537</td>
<td>3356</td>
<td>3621</td>
<td>3197</td>
<td>4361</td>
<td>5320</td>
<td>6181</td>
</tr>
<tr>
<td>Percentage</td>
<td>18.6</td>
<td>17.8</td>
<td>21.2</td>
<td>23.6</td>
<td>21.7</td>
<td>17.4</td>
<td>19.6</td>
<td>20.8</td>
<td>21.9</td>
</tr>
</tbody>
</table>


These types of aggregate statistics, however, cannot provide a completely accurate picture of the extent to which the
provincial economy relies upon primary resource extraction and especially the forest industry because they do not provide any indication of the extent to which jobs in other areas of the economy are reliant upon the primary resource sector. Many aspects of provincial transportation and construction work, for instance, are indirectly reliant upon the forestry industry but such inter-sectoral linkages are not reflected in Table I, nor do such statistics indicate the extent to which the provincial economy is dependent on the export of its primary resources. Using information gathered on the expenditure patterns of the major forest companies, it is estimated that in 1972 direct forest industry employment totalled 84,000 while another 42,000 jobs were created indirectly in areas such as road and housing construction. Utilizing a multiplier of two for both direct and indirect forestry employment in such consumer related areas as the food and retail trades and other associated service industries one can conclude that the total direct, indirect and forestry induced employment in B.C. in 1972 was 250,000 or about 25 per cent of the total provincial workforce.


Table III - Forestry Exports at Selling Value and British Columbia Gross Domestic Product at Market Value 1970-1978

(figures in $000,000 in current dollars)

<table>
<thead>
<tr>
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<th>70</th>
<th>71</th>
<th>72</th>
<th>73</th>
<th>74</th>
<th>75</th>
<th>76</th>
<th>77</th>
<th>78</th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP</td>
<td>9463</td>
<td>10500</td>
<td>11975</td>
<td>14206</td>
<td>16685</td>
<td>18357</td>
<td>22223</td>
<td>25517</td>
<td>28202</td>
</tr>
<tr>
<td>All Exports</td>
<td>2032</td>
<td>2190</td>
<td>2758</td>
<td>3820</td>
<td>4177</td>
<td>3872</td>
<td>5269</td>
<td>6307</td>
<td>7558</td>
</tr>
<tr>
<td>%</td>
<td>21.5</td>
<td>20.8</td>
<td>23.0</td>
<td>26.9</td>
<td>25.0</td>
<td>21.1</td>
<td>23.7</td>
<td>24.7</td>
<td>26.8</td>
</tr>
<tr>
<td>All Exports</td>
<td>2032</td>
<td>2190</td>
<td>2758</td>
<td>3820</td>
<td>4177</td>
<td>3872</td>
<td>5269</td>
<td>6307</td>
<td>7558</td>
</tr>
<tr>
<td>Forestry Exports</td>
<td>1219</td>
<td>1379</td>
<td>1707</td>
<td>2291</td>
<td>2509</td>
<td>2146</td>
<td>3190</td>
<td>3799</td>
<td>4620</td>
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<tr>
<td>%</td>
<td>59.9</td>
<td>62.9</td>
<td>61.9</td>
<td>59.9</td>
<td>60.0</td>
<td>55.4</td>
<td>60.5</td>
<td>60.2</td>
<td>61.1</td>
</tr>
<tr>
<td>Forestry Exports</td>
<td>1219</td>
<td>1379</td>
<td>1707</td>
<td>2291</td>
<td>2509</td>
<td>2146</td>
<td>3190</td>
<td>3799</td>
<td>4620</td>
</tr>
<tr>
<td>U.S. Forestry Exports</td>
<td>673</td>
<td>886</td>
<td>1165</td>
<td>1403</td>
<td>1288</td>
<td>1131</td>
<td>1787</td>
<td>2351</td>
<td>2994</td>
</tr>
<tr>
<td>%</td>
<td>55.2</td>
<td>64.2</td>
<td>68.2</td>
<td>61.2</td>
<td>51.3</td>
<td>52.7</td>
<td>56.0</td>
<td>61.8</td>
<td>64.8</td>
</tr>
</tbody>
</table>


As the figures presented in Table III clearly indicate the British Columbia economy in general and specifically all the above-mentioned forest industry related production and employment are dependent upon exports. Twenty three per cent of the provincial Gross Domestic Product was shipped out of the country between 1970 and 1978 and forest products made up as
much as sixty three per cent of all provincial exports during the same period. These forestry exports in turn are heavily dependent on the U.S. market which accounted for about sixty per cent of all forestry exports.

In strictly legal terms there is very little question about which level of government in Canada has control over, and is primarily responsible for the forest resource base and its development. As Thompson and Eddy have pointed out, the forest resource represents one of the few natural resource areas which falls unambiguously under provincial control.\footnote{44}{

Provincial jurisdiction over the forest industry was specified in the BNA Act (section 92(4)) whereby "the Management and Sale of the Public Lands belonging to the Province and the Timber and Wood thereon", became an area within the sole legislative competence of provincial governments.\footnote{45}{
Government of Canada, Department of Justice, A Consolidation of the Constitution Acts 1867-1982, Ministry of Supply and Services Ottawa 1983.} This clear jurisdiction over the forest resource enjoyed by the provinces is reinforced by provincial ownership of the forest land base. With the exception of Alberta, Manitoba, and Saskatchewan, all provinces entering the Canadian Confederation gained this ownership via Section 109 of the BNA Act. Additional
reinforcement of provincial control is found in Section 92(13) whereby the provincial legislatures are assigned exclusive legislative jurisdiction over property and civil rights. As Laforest and McConnell have pointed out, this clause has been given quite a broad interpretation by the courts, providing the provinces with the ability to legislate laws affecting even such clearly defined federal lands as Indian reserves.⁴⁶

This exclusive provincial control was retained in the present constitution (section 92(lb)), in which the provinces retain the exclusive right to make laws concerning the
development, conservation, and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom.

As Peter Hogg has noted, the additions made in section 92A serve to reinforce existing provincial rights over the natural resource base, including the original jurisdiction over the forest industry provided in Section 92(4).⁴⁷ Little additional provincial authority over primary resources is contained in the new constitution. The new provincial control over exports to other provinces remains subject to the federal paramouncty


declared in section 92A(3) and the new provincial taxation powers, according to section 92A(4), must not discriminate between provinces. As such, the new arrangements clearly remain subject to the federal powers over the economic union.

Even such extensive provincial legal authority over the forest resource base as was contained in the original British North America Act, however, has not eliminated the need for extensive federal-provincial interaction in this area. While the federal government may not have any control over the provincial resource base itself, because of the provincial dependence on export markets the federal powers over trade and commerce can significantly influence the performance of the forest and other primary resource industries and hence of the provincial economy.\textsuperscript{48} Equally important as the export issue to federal-provincial interaction over the economy have been the political factors involved in resource development planning, especially the provincial government's desire to control the future direction of the provincial economy. The provincial acceptance of the planning philosophy embodied in integrated resource management, or multiple use forestry, for example, has provided the opportunity for B.C. provincial forest policy to

clash with federal fisheries or environment policy. 

As a large scale economic enterprise, forestry, like other primary resource industries, involves issues associated with the regulation of business and the economy in general. 

Thus, because of the dependence of the B.C. economy on export-oriented primary resource industries, and because of the federal control over export and trade policy, it is clear that the structure of the provincial economy itself provides a continual opportunity for federal-provincial interaction. 

However, while some degree of federal-provincial interaction is a necessity in British Columbia, the nature of this interaction can be influenced by the extent to which the province attempts to determine the path of the future development of the provincial economy. That is, while the potential for federal-provincial conflict is always present, it is likely to surface only when the federal and provincial governments have different visions of the future course of provincial development. It is also true that any provincial development involving a growth of

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5. R.M. Burns, Conflict and Its Resolution in the Administration of Mineral Resources in Canada, Centre for Resources Studies, Queen's University, Kingston, 1976 pp. 15-22 esp.

export-reliant sectors of the economy will involve a growth of the need for increased federal-provincial interaction.

This has clearly been the case since World War II. The growth of the provincial economy has resulted in an increase in intergovernmental interaction oriented towards maximizing the ability of the provincial government to promote the economic development of the province. As the analysis presented in Chapter II demonstrates, after 1960 W.A.C. Bennett began to concentrate more and more on the structures and processes of intergovernmental relations as his own provincial development schemes began to increasingly involve other levels of government. Bennett shifted away from British Columbia's traditional concerns with maximizing the fiscal benefits the province gained from the Canadian federation and began to develop proposals for a major reform of the distribution of federal and provincial powers through the reform of major federal institutions. In this regard two noticeable instances stand out. The first concerned the Columbia River Project. Although there had been ongoing federal-provincial interaction over this scheme since the late 1940's, 1961 was the turning point for the federal-provincial aspects of the project as provincial plans to finance the Peace River development through long-term sales of power from the Columbia project ran into

A second instance concerned the Offshore Oil dispute which also flared up during this period after having remained dormant for several decades. This issue came to a head in 1960-1961 with the promulgation of several federal Orders in Council permitting exploratory drilling in the coastal waters off British Columbia, a move which the provincial government met by issuing its own counter-permits. This dispute eventually led to federal-provincial negotiations and was referred to the Supreme Court of Canada in 1965.\textsuperscript{53} These two situations clearly demonstrated to Bennett the limited capability of the existing federal system to resolve federal-provincial conflict in a manner satisfactory to the province and led him to reconsider his original proposals for modest federal-provincial reform through the establishment of continuing committees of officials.

As pointed out in Chapter II, B.C. governments after W.A.C. Bennett did not significantly depart from his original mid 1960's proposals for the reform of federalism. However, after the return of a Social Credit government in 1976, the linkages between federal-provincial relations and the economic development of the province were made especially clear. Since 1976 British Columbia has consistently attempted to influence federal trade policy through the use of intergovernmental

meetings of ministers and officials. In a systematic presentation of B.C.'s positions to the 1978 First Ministers Meeting(s) on the Economy, the W.R. Bennett government outlined the importance of trade and export issues to its conception of the proper course of provincial development and established trade liberalization as the second key plank in its federal-provincial platform. Bennett argued for a general reduction in tariff and non-tariff barriers to trade and suggested an economic strategy based on export development would best suit the Canadian economy:

The long term policy direction for commercial policy should be full and orderly integration into the world economy. Canada's resource industries compete in international markets and have attained high levels of productivity... Much of our manufacturing and most of our exports are dependent on resources.

He specifically argued that:

Integration into the world economy with access to larger markets will provide opportunities for product specialization, higher levels of capacity utilization and lower unit costs which are essential to Canada's sustaining a cost-competitive manufacturing sector. Freer trade will act to ensure more consistent

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56 Ibid pp. 5.
productivity growth in all sectors of the economy.\textsuperscript{56}

At the November follow-up conference British Columbia again argued in favour of trade liberalization, but added arguments purporting to show that the province continues to suffer from protectionist national policies:

Canada's industrial policies have had serious consequences for regional economic development. Regions outside the central manufacturing corridor in Quebec and Ontario have not developed a strong industrial base to serve the Canadian market. In many cases resource based industries have formed the backbone of the regional economies and this has tended to constitute a two-fold disadvantage. Resource based industries must compete in a relatively free international market and have received little or no protection. On the other hand, needed machinery and other fabricated inputs frequently have high rates of protection and are therefore more expensive to these firms than would otherwise be the case. In other words input costs have been inflated while prices have been held to competitive world levels.\textsuperscript{57}

According to Bennett, trade liberalization would solve these problems in British Columbia and in Canada:

Canada should seek the greatest degree of market access possible and should be prepared to reduce protection to achieve its access objectives. Canada should refrain from excepting sectors from Tariff cuts and should co-operate with other nations who are willing to undertake a greater degree of reciprocal


These same issues had also involved the province in increased interprovincial discussions, especially the issue of non-tariff barriers to trade. The Western Premiers had prepared briefs for the federal government on issues under consideration at the Tokyo Round of the GATT negotiations and had come out strongly in favor of a commitment to reduce non-tariff barriers. They adopted a position almost identical to that of British Columbia, calling for freer international trade in order to open up new markets for western producers and provide lower costs to western consumers.\footnote{Western Premiers Conference, The Industrial Sector in Multilateral Trade Negotiations October 1977, Western Premiers Conference, The Non-Tariff Barrier Codes in the Multilateral Trade Negotiations A Brief jointly submitted by the Western Provinces of British Columbia, Alberta, Saskatchewan and Manitoba, to the Government of Canada, Yorkton, April 14, 1978, and Western Premiers Conference, Western Trade Objectives Position Paper prepared for the Western Premiers Conference, Yorkton, Saskatchewan, April 13-14, 1978.}

In order to achieve its ends, the Bennett government continued to demand increased federal-provincial consultation on the economy. At the 1978 First Minister's Conferences, British Columbia urged the rationalization of the existing system of ad hoc federal-provincial committees through the establishment of permanent secretariats and regular meetings. The province also
proposed restructuring federal regulatory and advisory commissions (such as the National Energy Board, the Economic Council of Canada, the Bank of Canada, the Canadian Transport Commission, the Energy Supply Allocation Board, the Canadian Trade and Tariffs Committee, the Anti-Dumping Tribunal, and the Export Development Committee) in order to take into account provincial concerns. This position was reiterated in 1981 when the province condemned the failure of the federal government to implement the suggestions of the provinces on trade policy. In a brief presented to the 1982 federal-provincial conference of trade ministers B.C. stated:

Canadian trade policy has been inward looking and ineffective since the conclusion of the multilateral trade agreements... federal-provincial consultative procedures on trade policy continue to be inadequate... the consultation must be intensified if Canada is to develop a positive trade policy for the 1980's.

From the analysis of the content of British Columbia's intergovernmental relations presented in Chapter II it is evident that the history of the development of those relations

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is one of the repeated breakdown of established patterns of intergovernmental relations as the provincial economy continued to grow and develop. That is, after the province challenged the Confederation status quo at the turn of the century, both the federal and provincial governments turned to the courts to establish a new balance of powers. Between the First and Second World Wars, the courts managed to establish such a *modus vivendi* based on the distinction between provincial control over intra-provincial matters and federal control over inter-provincial issues. This relationship between the two levels of government was to last until the late 1950's when provincial development schemes began to outgrow the inter-provincial/intra-provincial distinction established by the courts. By the late 1960's the provincial government had come to the conclusion that only major structural change in the federal system itself would allow the province to attain the control over provincial development it desired. Until the mid 1970's, however, the province's concerns remained tied to several large development issues, notably the Columbia River Project and the Off-Shore question, and rose and fell in conjunction with those issues. It was not until after 1976 that the province began to enunciate a consistent set of economic development proposals which affected the content of its intergovernmental relations at both the federal-provincial and interprovincial levels. In the period 1976-1983 the British Columbia government consistently extended itself beyond the confines of the province and urged its plans, proposals and theories onto the federal government. Since the economic
imperatives of the provincial government formed the basis of its desired national policies, its constitutional proposals can be seen to be the corollaries of its economic development proposals, especially of its proposals for trade liberalization and the reduction of government "interference" in the operation of the economy. Since the implementation of these proposals at the provincial level is clearly impossible without federal support, the Bennett government has consistently urged them on the federal government. According to the priorities established by the provincial government after 1976, a simple assertion of provincial powers would not serve the provincial interest, since what was required was the full scale adoption by the federal government of those same provincial priorities. It became necessary for British Columbia to develop some method by which provincial priorities could become national priorities, an end well suited by the province's proposals on Senate reform and executive federalism.

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IV. THE ADMINISTRATION OF INTERGOVERNMENTAL RELATIONS IN BRITISH COLUMBIA

From the analysis presented in Chapters II and III it is evident that the basic federal need for some sort of intergovernmental relations has been aggravated in the case of British Columbia by the export-oriented structure of the provincial economy and the desire of provincial governments to develop the provincial economy through increased export promotion. Thus from at least the late 1950's the need for increasing the province's intergovernmental relations has been established. However, as pointed out in the introduction, the establishment of a simple need for such relations does not ensure that such a need shall be met. From the analysis of the development and content of British Columbia's intergovernmental relations presented in Chapters II and III it is evident that this need was met in only an ad hoc fashion until 1976. Only after 1976 did the provincial government begin to enunciate a coherent and consistent set of intergovernmental positions at both the federal-provincial and interprovincial levels based on the two interlinked themes of trade liberalization and Senate reform. As was argued in the introduction, the actual timing of the development of structures capable of enunciating the province's intergovernmental positions is reliant on the overall development of the internal public administration of the state. Hence, in order to explain the gap in the development of intergovernmental relations in British Columbia between 1960 and 1976 one must examine the internal organization of the state as
it relates to intergovernmental affairs.

As Woolstencroft has established, by 1982 all Canadian provincial governments had created some form of administrative agency with specific responsibility for intergovernmental relations.\(^6^3\) While these agencies vary considerably in size, structure and responsibility, all occupy a position within the government which allows them to be classified as "central" or "executive support" agencies.\(^6^4\)

Up until the late 1960's the business of the government of British Columbia was conducted without the benefit of any executive support agencies. Little delegation of executive authority was made to cabinet committees, and in cabinet itself, the Premier retained almost all authority. No cabinet minutes were kept, there was no cabinet secretary, and the Treasury Board consisted essentially of the Premier himself.\(^6^5\)


extent the executive operated much like that of the federal government pre-1940, with the Premier obtaining whatever advice he needed from a select group of senior administrators.\(^6\)

This situation changed slightly in 1969 when six standing committees of cabinet were established. However these committees had no support staff and little decision-making authority.\(^7\) In 1971, this system again changed slightly when the Environment and Land Use Committee (ELUC) of Cabinet was established to deal with a broad range of issues then facing the government.\(^8\) It was also in 1971 that an administrator was first allowed to attend cabinet meetings to take minutes and record decisions.\(^9\)

Despite these changes, however, the record of the British Columbia government up until 1972 was of a failure to establish any administrative agencies to aid the executive in the

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decision-making process. The executive refused to delegate any authority and relied on senior line department officials to provide advice and information whenever the need arose.

Although the New Democratic Party government proved equally reticent to delegate authority to executive agencies, it did move early in its term to create a large number of commissions and boards which provided cabinet with information and policy advice in specific issue areas. The NDP also moved to reinforce the capacity of line departments to perform an advisory function through infusions of personnel and funding.\(^7\) Central to this creation of advisory capability in the line departments was the government's replacement of many senior administrators by officials recruited from outside the provincial civil service.\(^7\)

None of these early moves by the NDP government actually altered the structure of the provincial administration, as no new types of agencies were created and major administrative reform was avoided. However, by 1973-1974 the government had taken a series of steps which did alter the existing structure by creating rudimentary central agencies.


\(^7\) Cynthia Brand, The Recruitment of Deputy and Associate Deputy Ministers by the New Democratic Party in British Columbia MA Thesis, Queen's University, 1975. The long term impact of these moves is discussed in Norman J. Ruff, Administrative Styles in the British Columbia Public Service Paper presented to the B.C. Projects Seminar, UBC, June 1983.
In 1973 the government moved to provide the Environmental and Land Use Committee with a secretariat capable of providing background research and analyses of pertinent policy questions. This provided the cabinet itself with a separate agency with its own advisory capacity for the first time.\textsuperscript{72} This capacity was expanded in 1974 when the government established the Office of the Planning Advisor to Cabinet (PAC) and recruited officials to the Office capable of policy analysis, evaluation and co-ordination.\textsuperscript{73} In 1975 the government developed a cabinet committee system aimed at delegating co-ordinative authority within the cabinet itself. This plan was all but ready to be implemented when the government fell in late 1975.\textsuperscript{74}

Although it does not appear that the NDP had an overall plan for administrative development in mind when it took office in 1972, by the time the government was defeated in late 1975 it


\textsuperscript{74} \textit{Interview} Victoria, November 1983.
had succeeded in establishing the basic elements of a system of executive support agencies. These developments laid the foundations for later administrative reforms carried out by the W.R. Bennett government after 1976.\textsuperscript{75}

In 1976 the new Social Credit government moved to adopt the cabinet committee system developed by the NDP. This new system created a two tiered system of co-ordinating committees and policy committees, dividing the co-ordination duties between a Priorities and Planning Committee and a Treasury Board and the policy duties between an Economic Development and a Social Services Committee. The Environment and Land Use Committee was retained and a Legislation Committee was added onto the co-ordinating committees later in the year.\textsuperscript{76} Later, in 1981/1982 an Employment Development Committee was also given the status of a co-ordinating committee. Throughout the period ad hoc special committees were established to deal with issues such as the Northeast Coal Project and the Constitution.\textsuperscript{77} Significantly, however, the new government blended the new system with the old. Membership in the Priorities and Planning Committee and on the Treasury Board was identical (composed of the Premier, the

\textsuperscript{75} Interview Victoria November 1983.


\textsuperscript{77} The most up to date list of cabinet committees is contained in Province of British Columbia, Ministry of Intergovernmental Relations, Second Annual Report April 1, 1981-March 31, 1982, Queen's Printer, Victoria, 1983.
Minister of Finance, and the chairmen of the two policy committees), resulting in a situation where the Priorities and Planning Committee met infrequently. Because of this, the new system continued to operate in the same manner as the old and the Premier and Minister of Finance retained a great deal of control over government policy-making and resource allocation. Again, much of the advisory and co-ordinative work was done by senior government officials who staffed two shadow committees established to parallel the two cabinet policy committees.

Changes also occurred during this period concerning the development of the Office of the Planning Advisor to Cabinet and the Treasury Board Staff. Although the staff in the PAC remained much the same after the Social Credit takeover, its senior officials were replaced by new government appointees and its name was changed to that of the Office of Intergovernmental Relations. Like the changes in the cabinet committee system, however, these changes appear to have been somewhat cosmetic. The new Office functioned largely as a cabinet secretariat, providing clerical services to the cabinet, cabinet committees, and deputy minister committees and, as in the past, only a very few top officials actually concentrated on intergovernmental

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78 Interview Vancouver October 1983.


80 Interview Victoria, November 1983.
relations. \(^2\)

From 1976-1979 the Social Credit government built on the basis of executive support structures established by the NDP but retained the provincial tradition of a very centralized government dominated by the Premier and Cabinet and a small number of trusted administrators. In taking such actions as dismantling the ELUC Secretariat and refusing to provide other cabinet committees with more than basic clerical support Bennett ensured the dominance of Cabinet by the Premier and further centralized control of the provincial administration. \(^2\)

In 1979 this structure appeared to change when the government created a separate Ministry of Intergovernmental Relations and transferred to it most of the staff involved in the Office of Intergovernmental Relations and several staff dealing with constitutional issues formerly located in Attorney General's Office. Again, however, from at least 1979-1981 this change appears to have been largely cosmetic. The new Ministry operated without a clear mandate, having for its terms of reference only those details supplied in a press release announcing its creation in November 1979. According to many observers it was largely inspired by the Premier's concern with reducing the size of the Executive Council budget in order to

\(^{1}\) Interview Victoria, November 1983.

blunt opposition criticism.\footnote{3}

An examination of the mandates given to the Ministry of Intergovernmental Relations between 1979 and 1983 reveals a great deal about the administrative expectations held out for the new Ministry and the degree to which it succeeded in fulfilling those initial expectations. In the original press release issued when the Ministry was established in November 1979 (see complete text in Appendix D), five main functions were listed. These were

1. To co-ordinate and develop policies, strategies and activities regarding British Columbia's relations with other governments.

2. To co-ordinate and develop B.C.'s policy on proposals to reform federalism.

3. To facilitate the functioning of the Cabinet Committee system.

4. To ensure adequate consultation and co-ordination regarding submissions to Executive Council.

5. To advise the Premier on the allocation of responsibilities to Cabinet Committees and Ministries.\footnote{4}

The Ministry operated without any legal mandate until August 1980. When its enabling act was finally passed it contained

\footnote{3} Interviews, Victoria and Vancouver, October and November 1983.

only two purposes:

1. To co-ordinate the activities of, to make recommendations to, and to develop programs and policies for the Executive Council in relation to federal-provincial, interprovincial, and extra-provincial affairs, and

2. To act as secretariat to the Executive Council and its committees and to co-ordinate policy development among the ministries.\(^5\)

By 1981 the Ministry's self-described functions had been reduced to the point where references to actually controlling other line ministries were very much reduced. The Ministry was now expected to fulfill four main functions:

1. To co-ordinate and develop policies, strategies and activities concerning British Columbia's relations with other governments both within Canada at the federal and provincial level and outside Canada.

2. To co-ordinate and develop B.C.'s policy on proposals to reform federalism.

3. To facilitate the functioning of the Cabinet committee system by providing secretariat services to all standing and ad hoc committees of cabinet other than Treasury Board.

4. To ensure adequate consultation and co-ordination has taken place regarding all submissions to the Executive Council and advising the Premier on the allocation of

\(^5\) Revised Statutes of British Columbia, Ministry of Intergovernmental Relations Act SBC Chapt 32, Queen's Printer, Victoria, 1981.

responsibilities to Cabinet committees and ministries.\textsuperscript{86}

From a comparison of the changing functions ascribed to the Ministry since its inception, it is clear that the government never followed through on its original intention to create a Ministry delegated considerable autonomy to deal with a great number of tasks involving other government agencies.

An analysis of the fluctuations in the financial and personnel resources made available to the Ministry bears this out. The Ministry grew slowly from its initial status as an office. In 1977 the Office had a total budget of $290,145, about half the total expenditures of the Executive Council. The budget fell slightly in 1977-1978 to $261,819 and in 1978-1979 to $243,591. In 1979-1980 the Office budget totalled $299,194 and other Executive Council administration $225,564.\textsuperscript{87} The Ministry's first budget for 1980-1981 totalled $2,414,320. However, this included $1,127,135 for B.C. House in London and the new B.C. House set up in Ottawa, and $170,000 spent on the Minister's Office. The increased importance of constitutional issues was reflected in the large increase in administration costs which rose 100 per cent from 1979-1980 and totalled


\textsuperscript{88} Ibid 1980-1981.
$1,117,076. In 1981-1982 the Ministry employed forty three staff and had a budget of $2,488,616. In 1982-1983 its estimated expenditures rose twenty per cent to $2,913,693. However, most of the increase stemmed from a proposed increase in staff from forty three to forty six which was never carried out. By 1983-1984 projected expenditures returned to the 1979 level at $2,423,087.

Between 1979 and 1983, fewer than a dozen personnel in the Ministry actually worked on intergovernmental relations. Most of the staff employed by the Ministry performed clerical or secretarial duties. In fact, the Ministry only began to receive the personnel and funding necessary to allow it to perform any kind of effective intergovernmental role in 1981-1983. Senior staff were appointed to the Ministry after 1979 who had a major impact on the constitutional negotiation process, but these officials had little day-to-day responsibility for the running of the Ministry. Instead they worked almost exclusively on projects assigned to them by the Premier. Most of these staff had left the Ministry by 1983. The remaining staff managed in 1983 to institute for the first time the monitoring function

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originally assigned to the Ministry in 1979.91

Thus an examination of the internal organization of the provincial government reveals a close correlation in the timing between the development of rudimentary central agencies after 1976 and the development of the coherent set of intergovernmental positions outlined in Chapter II. The Ministry of Intergovernmental Relations was never given the personnel or financial resources, however, which would have allowed it to fulfill its original mandate and develop and coordinate the implementation of intergovernmental policy. The Ministry's main impact clearly was to act as an advisory agency for the provincial executive and bring some consistency to intergovernmental policies developed by previous governments and adopted by the W.R. Bennett government.

It is also important to recognize that even the advisory function performed by the Ministry of Intergovernmental Relations was limited. The Ministry played an important role in developing the province's Senate reform proposals and in rationalizing its overall intergovernmental policy, but had only a minor role to play in the development of the provincial trade liberalization proposal. That proposal was developed in the Economic Analysis and Planning Division of the Ministry of Economic Development, which itself co-ordinated British Columbia's interaction with the federal government concerning

91 Interview Victoria, November 1983.
DREE programs. This Division was later transferred from the Ministry of Industry and Small Business Development to the Ministry of Finance. The Ministry also suffered from the increasing attention paid by the executive to the internal development of the provincial economy throughout the early 1980's. This has worked to the disadvantage of the Ministry of Intergovernmental Relations at the same time that it worked to the advantage of the Ministry of Finance and its Treasury Board Staff division. The Treasury Board Staff had always retained control over the negotiation of the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act and with the transfer of the Economic Analysis and Planning Division began to take on extensive policy evaluation and development functions (on the terms of reference of the Treasury Board and the Treasury Board Staff see Appendix E). The Treasury Board Staff has grown quickly in terms of administrative resources, jumping

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from expenditures of $1,187,519 in 1981-1982\(^9\) to an estimated expenditure budget of $3,279,666 in 1983-1984.\(^9\) In fact, the Treasury Board Staff has assumed much of the co-ordinating role originally assigned to the Ministry of Intergovernmental Relations in 1979.

In summary, it is apparent that the tradition of strong government led by an unaided Premier and Cabinet established under W.A.C. Bennett resulted in the time lag observed in British Columbia with regards to the development of intergovernmental relations and intergovernmental relations machinery. It was only the slow dismantling of this tradition, manifested in the halting steps towards internal reform undertaken by the Barrett government, which allowed B.C. to begin to adequately address its increasing intergovernmental needs. The Ministry of Intergovernmental Relations was an outgrowth of this NDP initiated internal reform which the W.R. Bennett government permitted to continue to develop. However, the Ministry's development and its corresponding ability to effect intergovernmental change were undermined by the increasing tendency of the provincial government to re-institute strong Premier and Cabinet control over the bureaucracy. This tendency, coupled with the concern for the internal state of the provincial economy, worked to the advantage of the Treasury Board and Treasury Board Staff and to the disadvantage of the

Ministry of Intergovernmental Relations.
V. CONCLUSION: CENTRAL AGENCIES AND THE DEVELOPMENT OF INTERGOVERNMENTAL RELATIONS IN BRITISH COLUMBIA

From an analysis of the historical development, political economy and public administration of intergovernmental relations in British Columbia, a number of conclusions can be drawn. In terms of historical development, the overall trend of intergovernmental relations in B.C. has followed the general pattern outlined by Veilleux for the rest of Canada. That is, an initial period of quasi-Imperial rule from Ottawa based on the exercise of the powers of reservation and disallowance and institutionalized in the Office of the Lieutenant Governor extended from 1871 to the turn of the century. At that time, increased provincial government resistance rendered the federal powers ineffective and the two governments turned to the courts to settle questions of the proper distribution of jurisdictions between levels of government. The pattern established by the courts between 1916 and 1939 based on the distinction between matters affecting intra-provincial or inter-provincial jurisdictions lasted until after the Second World War. During this time federal-provincial negotiations were carried out through the use of intergovernmental conferences and committees, and British Columbia remained content to use these forums to attempt to increase the fiscal benefits the province enjoyed as a part of the Canadian Federation. By the late 1950's, however,

96 Supra pp. 3-5.
the province became increasingly dissatisfied with the status quo. Under the leadership of W.A.C. Bennett, the province at first suggested slight modifications to existing federal-provincial structures but after 1960 began increasingly to demand more and more radical modification of central federal institutions. By the late 1970's these demands had crystalized around two main proposals: the reform of the Canadian Senate and the removal of barriers to trade. For the first time, the province pursued these two demands at both the federal-provincial and interprovincial levels.

While the basic need for intergovernmental relations stems from the federal nature of the country, in the case of British Columbia this need was aggravated by the structure of the provincial economy. The development of an export-oriented primary resource based provincial economy contained within it the seeds for federal-provincial conflict given the extensive provincial control over the resource base itself and the exclusive federal control over export and trade policy. In the face of greatly expanded provincial resource development in the late 1950's and early 1960's, the federal-provincial accord over the proper distribution of powers established before the Second World War broke down.

However, the province did not pursue its structural demands for a redistribution of powers in any consistent manner until the late 1970's because it did not have the administrative apparatus necessary to allow it to do so. The tradition of centralized control by the Premier and Cabinet established by
W.A.C. Bennett prevented central agencies capable of developing overall provincial intergovernmental strategies from being established. The NDP government began moving towards the establishment of such agencies after 1972 but the return of a Social Credit government in late 1975 re-established the principle of strong central government. The W.R. Bennett government put many of the NDP initiatives into practice but in the case of the Ministry of Intergovernmental Relations never provided the political support or administrative resources necessary for the Ministry to fulfill its original co-ordinating mandate. The Ministry, however, did provide additional advisory capacity to the provincial executive along with its secretarial services. In this regard its contribution to the emergence of a consistent and coherent set of provincial intergovernmental policies during the 1970's was not negligible.

The emergence of economic issues internal to the province and the provincial government during the early 1980's has worked in favor of the Treasury Board Staff at the same time that the patriation of the Constitution has worked against the Ministry of Intergovernmental Relations. But here the key factor in this process remains the trend towards the re-establishment in the province of a strong Premier and Cabinet government. The tendency towards the re-establishment of an unaided government has ensured that the resources available to central agencies will be limited and that any one such agency can only grow at the expense of another.

It is unlikely, however, that the Ministry of
Intergovernmental Relations will continue to decline any further at the expense of the Treasury Board Staff or any other central agency. The 1982 constitutional accord has not eliminated the potential for federal-provincial conflict or interaction over economic issues, and the proposals for Senate reform remain on the table. Whether the Ministry will ever grow in importance remains another question. Clearly past evidence has shown that the Ministry has received more staff and administrative importance when constitutional issues or jurisdictional issues associated with the growth of the provincial economy have occupied the executive. As the analysis presented in Chapter III indicates, such issues are to be expected given the structure of Canadian federalism and the British Columbia economy. While the current downturn in the provincial economy may have turned the government's attention inward, a recovery would once again focus attention on federal-provincial issues.

Regardless of the state of the provincial economy and the relative importance assigned by the provincial executive to intergovernmental issues, however, there is another area where the Ministry of Intergovernmental Relations could make a positive contribution to the efficient operation of the provincial government. Up to the present, the Ministry has always concentrated on the development of "macro" policy covering such issues as Senate reform and the division of powers and on specific policy issues such as the offshore and native rights issues which elude the jurisdictions of established provincial line departments. To a great extent the operation of
day-to-day intergovernmental relations, in terms of attending meetings and conferences and negotiating agreements, has been left in the hands of the individual provincial line departments. The provincial executive has clearly discouraged the establishment of an Alberta-style Ministry of Intergovernmental Relations which would attempt to control the day-to-day activities of line departments.\footnote{Interviews Victoria and Vancouver, October and November, 1983.}

Allowing the line departments to conduct their own day-to-day intergovernmental relations while the Ministry of Intergovernmental Relations concentrates on macro policy has two clear advantages. Firstly it allows the province to follow a multi-sectoral approach to these relations, meaning that a bitter conflict between B.C. and another government can be waged in one sector at the same time that agreements are peacefully concluded and signed in another. Secondly it allows the provincial government to pursue its "macro" objectives at the central agency level independently of the day-to-day conduct of federal-provincial or interprovincial relations. The province, through the Ministry of Intergovernmental Relations, can pursue policies such as those on reform of the Senate or trade liberalization which any line department would find difficult to implement on a day-to-day basis.

The main drawback to this approach, and the area in which the provincial government could benefit from the allocation of
additional resources to the Ministry of Intergovernmental Relations lies in the development of "middle-range" intergovernmental policy. Line departments might benefit from the provision in the Ministry of Intergovernmental Relations of an increased capability to monitor the activities of the federal and other provincial governments. This increased capability would enable the Ministry to provide valuable information and advice to the line ministries about the current federal climate and enable the line ministries to schedule their federal-provincial discussions to coincide with periods when the federal government might be favorable to provincial proposals.

In the past, British Columbia has gained from the timing of forest development talks in conjunction with an impending federal election\textsuperscript{98} and has suffered from attempting to entice Japanese auto industry manufacturing to British Columbia at the same time the federal government began instituting restrictions on Japanese auto imports.\textsuperscript{99} The Ministry of Intergovernmental Relations would be well suited to carrying out the role of monitoring the federal and other provincial governments and developing middle range policy advising line departments on the best times to pursue planned intergovernmental initiatives and negotiations. In fact, it is only the development of some such external monitoring which would give some meaning to the

\textsuperscript{98} Interview Victoria, October 1983.

\textsuperscript{99} Interview Vancouver, October 1983.
Ministry's recent efforts to monitor line department intergovernmental conduct. Without the provision of some benefit to the line ministries from their participation in the internal monitoring process, those ministries cannot help but view the process as redundant and will undoubtedly press for the elimination of even this moderate central agency function from the terms of reference of the Ministry of Intergovernmental Relations.
APPENDIX A - DISALLOWED BRITISH COLUMBIA ACTS 1871-1955

37 Vict. 1873-74 c.2 (BC)- An Act to amend and consolidate the laws affecting Crown Lands in British Columbia - Ignored Federal nature of Indian Lands - disallowed March 11, 1875

37 Vict. 1873-74 c.9 (BC)- An Act to make provision for the better administration of justice- affected federal powers to appoint judges- disallowed March 9, 1875

38 Vict. 1875 c.6 (BC) - An Act to make provision for the better administration of justice- affected federal powers to appoint judges - disallowed April 28, 1876

40 Vict. 1877 c.22 (BC) - An Act to provide for the better administration of justice- limited federal powers to control retirement and removal of appointed officers - disallowed May 15, 1878

40 Vict. 1877 c.32 (BC) - An Act to incorporate the Alexandra Land Company Ltd. - incorporated company engaged in business extending beyond the province - disallowed May 15, 1878

40 Vict. 1877 c.33 (BC) - An Act to incorporate the British Columbia Insurance Company Ltd. - Incorporated company within federal jurisdiction - disallowed May 15, 1878

41-42 Vict. 1878 c.25 (BC) - An Act relating to Crown Lands in British Columbia - dealt with federal jurisdiction over interest - disallowed Aug. 15,1879

41-42 Vict. 1878 c. 35 (BC) - An Act to provide for the better collection of Provincial Taxes from Chinese - declared unconstitutional and void by the Supreme Court of British Columbia but left on the statute books - disallowed Aug. 15,1879

41-42 Vict. 1878 c.37 (BC) - An Act to amend the Caribou Waggon Road Tolls Act 1876 - interfered with federal trade and commerce powers - disallowed Sept.24,1879
43 Vict. 1880 c.28 (BC) - An Act to amend the Caribou Waggon Road Tolls Act 1876 - interfered with the federal trade and commerce powers - disallowed July 27, 1881

43 Vict. 1880 c.29 (BC) - An Act respecting tolls on the Caribou Waggon Road - interfered with federal trade and commerce powers - disallowed July 27, 1881

45 Vict. 1882 c.8 (BC) - An Act to Consolidate and amend the Laws relating to Gold an other minerals excepting coal - effectively appointed judge to oversee act thus interfering with federal appointment powers - disallowed May 8, 1883

46 Vict. 1883 c.26 (BC) - An Act to incorporate the Fraser River Railway Company - Act contrary to National Railway Policy as oriented to North South trade - disallowed Sept. 25, 1883

46 Vict. 1883 c. 27 (BC) - An Act to Incorporate the New Westminster Southern Railway Company - Contrary to National Policy as encouraged North-South trade - disallowed Sept. 25, 1883

47 Vict. 1884 c.3 (BC) - An Act to prevent the Immigration of Chinese - Act does not deal with local matter and interferes with national and Imperial policy - disallowed April 7, 1884

48 Vict. 1885 c.9 (BC) - An Act to amend the Sumas Dyking Act 1878 - Conflicts with federal railway belt grant - disallowed March 11, 1886

48 Vict. 1885 c.13 (BC) - An Act to prevent the immigration of Chinese - interferes with federal trade and commerce powers - disallowed March 26, 1886

48 Vict. 1885 c.16 (BC) - An Act to amend the Land Act 1884 - act interfered with question of railway belt lands then before the courts - disallowed March 11, 1886

50 Vict. 1887 c.7 (BC) - An Act to establish a Court of Appeal from the Summary Decisions of Magistrates - affected federal jurisdiction over criminal matters - disallowed April 10, 1888
61 Vict. 1898 c.28 (BC) - An Act relating to the employment of Chinese and Japanese persons on works carried on under franchises granted by Private Acts - affected federal powers over external affairs and Imperial policy with Japan - disallowed May 29, 1899

61 Vict. 1898 c.44 (BC) - An Act to amend the Tramway Incorporation Act - affects Imperial policy with Japan and federal external affairs jurisdiction - disallowed May 29, 1899

62 Vict. 1899 c.39 (BC) - An Act respecting Liquor Licences - affected Imperial policy with China and interfered with federal external affairs policy - disallowed April 12, 1900

62 Vict. 1899 c.44 (BC) - An Act to grant a subsidy to a Railway from Midway to Penticton - interfered with Imperial policy towards Japan and China and with federal external affairs jurisdiction - disallowed April 12, 1900

62 Vict. 1899 c.46 (BC) - An Act to amend the Coal Mines Regulation Act - interferes with Imperial policy towards China and Japan and with the federal external affairs power - disallowed April 12, 1900

62 Vict. 1899 c.50 (BC) - An Act to amend the Placer Mining Act - interfered with federal trade and commerce, and external affairs powers - disallowed April 12, 1900

64 Vict. 1900 c.11 (BC) - An Act to regulate Immigration into British Columbia - interfered with federal policy re uniformity of Dominion Immigration Act - disallowed Sept. 4, 1901

64 Vict. 1900 c.14 (BC) - An Act relating to the employment on works carried on under franchises granted by Private Acts - affected Imperial policy towards China and Japan as well as federal immigration and external affairs jurisdictions - disallowed Sept. 4, 1901

1 Edw. VII 1901 c.80 (BC) - An Act to Incorporate the Lake Bennett Railway - Railway to be built in territory disputed between US and Canada - disallowed May 3, 1902
2 Edw. VII 1902 c.34 (BC) - An Act to regulate Immigration into British Columbia - Same Act as 64 Vict. 1900 c.11 (BC) - disallowed Nov. 14, 1902

2 Edw. VII 1902 c.38 (BC) - An Act relating to the employment on works carried on under franchises granted by Private Acts - Same Act as 64 Vict. 1900 c.14 (BC) - disallowed Nov. 14, 1902

2 Edw. VII 1902 c.48 (BC) - An Act to further amend the Coal Mines Regulation Acts - Act Ultra Vires provincial government and contrary to Imperial and Dominion immigration and external relations policy - disallowed Nov 14, 1902

3 Edw. VII 1903 c.12 (BC) - An Act to regulate Immigration into British Columbia - Act same as 2 Edw. VII 1902 c.34 (BC) - disallowed Oct. 1, 1903

3 Edw. VII 1903 c.14 (BC) - An Act relating to the employment on works carried on under franchises granted by Private Acts - Act same as 2 Edw. VII 1902 c.38 (BC) - disallowed Oct. 1, 1903

3 Edw. VII 1903 c.17 (BC) - An Act to further amend the Coal Mines Regulation Act - Act same as 2 Edw. VII 1902 c.48 (BC) - disallowed Oct. 1, 1903

3-4 Edw. VII 1903-1904 c.26 (BC) - An Act to regulate Immigration into British Columbia - Act essentially the same as 64 Vict. 1900 c.11 (BC) - disallowed Nov. 16, 1904

5 Edw. VII 1905 c.18 (BC) - An Act to amend the Supreme Court Act - Ultra Vires provincial legislature and interferes with federal powers to appoint judges - disallowed Nov. 1, 1905

5 Edw. VII 1905 c.28 (BC) - An Act to regulate Immigration into British Columbia - Act same as 64 Vict. 1900 c.11 (BC) - disallowed Sept. 1905

5 Edw. VII 1905 c.30 (BC) - An Act relating to the employment on works carried on under franchises granted by Private Acts - Act similar to 64 Vict. 1900 c.14 (BC) - disallowed Sept. 1905
5 Edw. VII 1905 c.36 (BC) - An further to amend the Coal Mines Regulation Act - Act same as 2 Edw. VII 1902 c.48 (BC) - disallowed Sept. 1905

8 Edw. VII 1908 c.32 (BC) - An Act to regulate Immigration into British Columbia - Substantially the same as 64 Vict. 1900 c.11 (BC) - disallowed Nov. 19, 1908

7-8 Geo.V 1917 c.71 (BC) - An Act to amend the Vancouver Island Settlers Rights Act 1904 - interfered with federal railway belt grant and federal railway policy - disallowed May 21, 1918


Source: G.V. La Forest, Disallowance and Reservation of Provincial Legislation Department of Justice, Queen's Printer, Ottawa March 1955
APPENDIX B - RESERVED BRITISH COLUMBIA ACTS 1871-1955

35 Vict. 1872 (BC) - An Act to amend the Qualification and Registration of Voters Act 1871 - Clause in Bill disenfranchises Chinese and Indians - Province given right to legislate as to its franchise under the BNA Act - assent given Sept. 18, 1872

35 Vict. 1872 (BC) - An Act to amend the Military and Naval Settlers Act 1863 - Conflicted with Terms of Union agreement - Assent refused Sept. 25 1872

35 Vict. 1872 (BC) - An Act to impose a Wild Land Tax - Conflicted with Federal railway land grants - Assent not given Oct. 8, 1872

35 Vict. 1872 (BC) - An Act to render legitimate children born out of lawful wedlock whose parents now are or may hereafter be married - No action appears to have been taken

36 Vict. 1872-73 (BC) - An Act to render legitimate children born out of lawful wedlock whose parents now are or may hereafter be married - No action appears to have been taken

40 Vict. 1877 no.35 (BC) - An Act to amend the Gold Mining Amendment Act 1872 - Entrenched on federal power to appoint judges - Assent not given Sept. 29, 1877

60 Vict. 1897 no.40 (BC) - An Act relating to the employment of Chinese or Japanese persons on works carried on under franchises granted by Private Acts - Interference in international relations and Federal interests - Assent not given Dec. 22 1897

4 Edw. VII 1904 no.72 (BC) - An Act to amend the Municipal Elections Act - No action appears to have been taken

7 Edw. VII 1907 c. 21A (BC) - An Act to regulate Immigration into British Columbia - Bill considered redundant as would allow immigration of classes of people already allowed to immigrate - Assent not given Nov. 27, 1907
5 Geo. V 1915 c.30 (BC) - An act to amend the Pool-Rooms Act - Interfered with international relations and Federal interests - Assent not given Jan. 25, 1916

9 Geo. V 1919 (BC) - An Act to amend the Vancouver Island Settlers Rights Act 1904 - Re-enactment of previously disallowed bill - Assent not given Jan. 26, 1919

10 Geo. V 1920 c.97 (BC) - An Act to amend the Vancouver Island Settlers Rights Act 1904 - Re-enactment of previously disallowed bill - Assent not given March 29, 1921

Source: G.V. La Forest, Disallowance and Reservation of Provincial Legislation Department of Justice, Queen's Printer, Ottawa, March 1955
APPENDIX C - JUDICIAL COMMITTEE OF THE PRIVY COUNCIL AND SUPREME COURT CASES INVOLVING BRITISH COLUMBIA 1871-1955

1889 14 AC 295 - Attorney General of British Columbia vs Attorney General of Canada - Dealt with rights for precious metals in railway belt - held for the province

1896 AC 561 - Esquimalt and Nanaimo Railway Company vs Bainbridge - dealt with land and precious metals rights in Railway Belt - held lands conveyed to Dominion but Province retains precious mineral rights

1903 AC 151 - Cunningham and Attorney General for British Columbia vs Tomey Homma and Attorney General of Dominion of Canada - dealt with immigration powers - Held federal government controlled naturalization but Province the privileges associated with it

1906 AC 204 - Attorney General for British Columbia vs Canadian Pacific Railway Company - dealt with federal rights to declare provincial lands as harbours - held federal government had complete jurisdiction and control

1907 AC 462 - McGregor vs Esquimalt and Nanaimo Railway Company - dealt with land grants of settlers in the railway belt - held previous provincial legislation valid

1908 AC 573 - Mary Watts and Attorney General of British Columbia vs Rubin Watts - dealt with divorce laws - held divorce within provincial competence

1911 AC 87 - Burrard Power Company Limited vs Rex - dealt with water rights in the railway belt - held within federal jurisdiction

1914 AC 153 - Attorney general for the Province of British Columbia vs Attorney general for the Dominion of Canada and Attorney General for the Province of Ontario and others - dealt with federal fisheries rights and the railway belt - held within federal jurisdiction
1916 AC 588 - Attorney General for Dominion of Canada vs Attorney General for the Province of Alberta and Attorney General for the Province of British Columbia - dealt with regulation of insurance companies - held federal trade and commerce powers did not extend to intra-provincial trade and commerce.

1916 1 AC 598 - Attorney General for the Province of Ontario and others vs Attorney General for the Dominion of Canada and Attorney General for the Province of British Columbia - dealt with provincial powers of incorporation - held question had already been decided.

1919 AC 999 - Attorney General for the Dominion of Canada vs Ritchie Contracting and Supply Company and others - dealt with federal powers over public harbours - held federal jurisdiction extended only to designated harbours used as such and not any geographic harbour site.

1922 AC 202 - Wilson and others vs Esquimalt and Nanaimo Railway Company - dealt with coal rights in the railway belt - reaffirmed provincial precious mineral and land rights.

1923 AC 450 - Brooks, Bidlake and Whittal Limited vs Attorney General for British Columbia - dealt with provincial timber licencing rights - held completely within provincial jurisdiction.

1924 AC 213 - Rex vs Attorney General for British Columbia - dealt with definition of a Royalty - held royalties not limited to lands mines and minerals and belonged to the province.

1924 AC 222 - Attorney General for British Columbia vs Attorney General for Canada and Attorney General for Ontario - dealt with customs duties - held province entitled to impose duties for intra-provincial matters.

1924 AC 203 - Attorney General of British Columbia vs Attorney General of Canada - dealt with provincial immigration powers - held province could not supercede Dominion treaty powers.

1927 AC 934 - Attorney General for British Columbia vs Canadian Pacific Railway Company - dealt with provincial taxing powers - held province could not impose indirect taxes.
1930 AC 111 - Attorney General for Canada vs Attorney General for British Columbia - dealt with fisheries powers - held federal powers did not extend to fish processing

1930 AC 357 - Attorney General for British Columbia vs MacDonald Murphy Lumber Company Limited - dealt with lumber taxation - held province could not interfere with federal inter-provincial and export powers

1933 AC 168 - Lower Mainland Dairy Products Sales Adjustment Committee vs Crystal Dairy Limited - dealt with marketing board powers - held provincial taxes imposed to support boards were indirect and hence ultra vires

1934 AC 45 - Attorney General for British Columbia vs Kingcome Navigation Company Limited - dealt with provincial taxation powers - held provincial direct tax not an interference with federal trade and commerce powers

1937 AC 368 - Attorney General for British Columbia vs Attorney General for Canada - dealt with provincial trade practices legislation - held such legislation was dealing with criminal and not civil rights law and hence intra vires federal government

1937 AC 377 - Attorney General for British Columbia vs Attorney General for Canada - dealt with federal marketing board legislation - held intra-provincial aspects ultra vires federal government

1937 AC 391 - Attorney General for British Columbia vs Attorney General for Canada - dealt with federal bankruptcy law - held for the federal government

1938 AC 708 - Shannon and others vs Lower Mainland Dairy Products Board - dealt with provincial marketing boards - held for the province

1946 AC 527 - British Columbia Electric Railway Company Limited vs Rex - dealt with definition of residence of a company - held place of residence for taxation purposes defined by place of business
1947 AC 87 - Co-operative Committee on Japanese Canadian vs Attorney General for Canada - dealt with wartime deportation of Japanese - held federal wartime Orders in Council valid

1950 AC 87 - Attorney General for British Columbia vs Esquimalt and Nanaimo Railway Company - dealt with provincial taxation of the railway belt - held province could tax for Timber sales and fire protection services etc.

1950 AC 122 - Canadian Pacific Railway Company vs Attorney General for British Columbia - dealt with attempt by CPR to claim exemption from provincial legislation on the grounds of its importance to the national economy - held for the province

Source: Richard A. Olmsted, Decisions of the Judicial Committee of the Privy Council relating to the British North America Act 1867 and the Canadian Constitution 1867-1954 Department of Justice, Queen's Printer, Ottawa 1957
1. To co-ordinate and develop policies, strategies and activities regarding British Columbia's relations with other governments by:

   a. Monitoring activities and relationships of other governments among themselves and with B.C.
   b. Co-ordinating relationships of B.C. ministries with other governments.
   c. Maintaining a thorough knowledge of Executive Council policies in intergovernmental areas.
   d. Analyzing issues and advising on appropriate strategies for B.C.'s approach to consultation on intergovernmental matters.
   e. Maintaining effective contacts with other governments and with B.C. House in Ottawa and B.C. House in London.
   f. Representing B.C. at meetings with other governments held for the purpose of preparing for and co-ordinating discussions of intergovernmental matters, and attending intergovernmental meetings as necessary.
   g. Co-ordinating preparations and preparing briefing material for the Premier and the Minister of Intergovernmental Relations at intergovernmental meetings.
   h. Organizing and administering arrangements for intergovernmental meetings hosted by the Premier of the Minister of Intergovernmental Relations.
   i. Ensuring that submissions to Cabinet— including submissions to the five policy committees of Cabinet (Planning and Priorities, Treasury Board, Economic Development, Social Services and ELUC)—take into account implications for intergovernmental relations.
   j. Co-ordinating and administering arrangements for visits to B.C. by foreign and Canadian representatives (other than those arranged by the Ministry of the Provincial Secretary with the trade liaison office) and by co-ordinating arrangements through the Department of External Affairs for visits to other countries by members of the Executive Council.
   k. Providing secretariat services to ongoing intergovernmental mechanisms such as the Alaska/B.C./Yukon committee of heads of government, and participating as B.C's representative in management meetings of the Canadian Intergovernmental Conferences Secretariat.
1. Providing appropriate staff services to support the special representatives of the Premier in Ottawa.

2. To co-ordinate and develop B.C.'s policy on proposals to reform federalism by:
   a. Advising the Minister of Intergovernmental Relations and through him the Premier and Cabinet on B.C.'s position and proposals on the reform of the Constitution of Canada and Federal-Provincial arrangements.
   b. Analyzing information and circulating it in appropriate formats on issues and events affecting the review of the Constitution and federal-provincial arrangements and their impact on B.C. as a member of the Canadian federation.

3. To facilitate the functioning of the Cabinet's committee system by:
   a. Advising the Premier on the structure and functioning of the Cabinet Committee system.
   b. Providing secretarial services to all standing and ad hoc committees of Cabinet other than the Treasury Board.
   c. Recording minutes and decisions of committees for appropriate circulation to Cabinet and to ministries.
   d. Administering records and publications of orders-in-council approved by the Executive Council and its committees.
   e. Preparing agendas for all meetings of Cabinet committees other than Treasury Board and providing for appropriate circulation of agendas and submissions.

4. To ensure adequate consultation and co-ordination regarding all submissions to Executive Council by:
   a. Reviewing all submissions to Executive Council committees and Treasury Board to determine whether ministries with an interest in a submission have been adequately consulted by the sponsoring ministry.
   b. Providing for interministerial consultation on submissions as appropriate.
   c. Briefing the chairman of all Cabinet committees other than Treasury Board in interministerial implications of submissions to Cabinet.
   d. Maintaining a continuing, thorough knowledge of the policy approaches and priorities of all ministries.

5. To advise the Premier on the allocation of responsibilities to Cabinet Committees and ministries by:
   a. Analyzing the workload, responsibilities and
inter-relationships of Cabinet committees and ministries.
b. Advising on means to ensure adequate consideration of the social, economic, environmental, and other policy objectives of government.
The Treasury Board itself is a Cabinet Committee charged with six main functions:

1. Provide central co-ordination and control of the overall operation of government Ministries.

2. Review and approve Ministry organization structures, establishment levels, classification standards and levels, remuneration policies and plans, and collective bargaining contracts.

3. Ensure the establishment and implementation of effective administrative, personnel and financial management policies, systems, and procedures through all government Ministries.

4. Establish budgetary policies, guidelines and procedures for general application in all government Ministries, to co-ordinate the preparation of Ministry budget estimates, and to prepare the consolidated Government estimates of revenue and expenditure for presentation to the Cabinet.

5. Monitor and evaluate the effectiveness and efficiency of Government programs and to determine the allocation of financial and other resources between programs.

6. Analyze and evaluate specific expenditure proposals from Ministries and to approve or disapprove such requests.

In practice, much of this mandate is actually carried out by the Treasury Board Staff. In 1981 the Staff's terms of references established ten main functions to be carried out in the name of the Treasury Board Ministers:

1. Review and analysis of Ministry organization structures and the development of recommendations to the Treasury Board with respect to the structuring of government Ministries.
2. The classification (i.e. job evaluation) of all public service positions in accordance with the standards established by the Government Employee Relations Bureau.

3. The assessment of the number of personnel required within each Ministry, and the administration of the Establishment Control records on behalf of the Treasury Board.

4. The specification of the systems and procedures to be used by government Ministries in preparing their annual budgetary estimates of revenues and expenditures.

5. The co-ordination of the budgetary process throughout all government Ministries.

6. The critical analysis and review of the content of the budgetary Estimates of each Ministry and the provision of advice and assistance to Ministers of the Treasury Board with respect to Ministry Estimates when they are formally presented to the Board.

7. The establishment of criteria for evaluating the efficiency and effectiveness of government programs in concert with Ministry executives and for monitoring the performance of all programs in cost benefits and other appropriate terms.

8. The analysis of specific Ministry requests for Treasury Board approval to expend funds and the presentation of recommendations to the Ministers of the Treasury Board in this regard.

9. The analyses, upon the request of the Chairman of the Treasury Board, of the financial implications of policy and program proposals submitted for consideration by the committees of Cabinet.
10. The assessment of existing administrative, personnel, and financial management policies throughout all government Ministries with particular responsibility for ensuring:

a. That suitable written policies are developed to cover all normal administrative operating requirements of government Ministries

b. That these are contained in a comprehensive standardized set of Administrative Policy Manuals that are readily accessible to government administrators.

c. That effective systems for controlling and updating Administrative Policy Manuals exist, and

d. That the stated Administrative policies are being adhered to by government Ministries

Source: J.R. Kelly, Associate Deputy Minister of Finance, Memo to Evan M. Wolfe February 2, 1981
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