



INSIDE POLICY

THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

JUNE 2014

Jim Flaherty

Calm in a storm

Stanley Hartt says credit is due to Jim Flaherty for keeping Canada insulated from the worst effects of the Global Financial Crisis

A look back at Jim Flaherty's message to students about the importance of public service

Also in this issue: Elaine and Jeremy Depow on how to be competitive in the Internet economy; Richard Remillard calls for a Financial Innovation Institute; Dwight Newman on the uses and limits of the 'duty to consult' doctrine; Ian Lee and Vijay Jog examine income inequality data; Ken Coates and Greg Poelzer call on governments to invest in improving conditions in 'provincial Norths'; Carin Holroyd calls for a national digital content strategy; Chrystia Freeland examines Canada's influence abroad; and commentaries on natural resources, Senate reform, spam and the emerging pressures on Canada's health care system



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THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

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Correction: An incorrect photo/caption combination was published in the print version of our April 2014 issue (article by Stanley Hartt, page 4). We apologize for the error. The online version of the April issue of the magazine shows the correct photo and caption.

The contributors to this publication have worked independently and are solely responsible for the views presented here.

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Editor's message



The end of an eventful – and at times quite emotional – parliamentary session is nearing. Hopefully cottage season will allow time to decompress by reading the following insightful public policy analyses and commentaries:

Stanley Hartt explains why late former Finance Minister Jim Flaherty deserves credit for his steady hand and pragmatic approach as he sought to keep Canada insulated from the worst effects of the Global Financial Crisis.

Richard Remillard recommends the establishment of a Financial Innovation Institute.

Dwight Newman examines the nature, uses, challenges and limits of the widely misunderstood duty to consult doctrine.

Ian Lee and **Vijay Jog** examine empirical data in a quest to determine whether income inequality is a problem meriting government intervention.

Noting that ‘provincial norths’ may be key to Canada’s economic future, **Ken Coates** and **Greg Poelzer** suggest it is time for provincial and federal governments to recognize their shared interest in improving conditions in the politically marginalized regions.

MLI’s **Brian Lee Crowley** highlights the importance of Canada’s natural resource sector – and creating the conditions in which it can thrive.

Benjamin Perrin eschews the notion of a national inquiry into missing and murdered Aboriginal women but instead calls for a renewed focus on prevention efforts by local police forces and all levels of government.

Noting that a great many countries have more advanced digital content policy frameworks, **Carin Holroyd** calls for a national digital content strategy for Canada.

Meredith MacDonald examines the rationale, the challenges and the implications of Canada’s anti-spam legislation, which is set to come into force on July 1, 2014.

Arguing that serious constitutional reform is our only option, **Brian Lee Crowley** contends it is possible to limit constitutional changes to Senate reform and foil provincial demands for broader negotiations.

Elaine and **Jeremy Depow** issue a call to action to industry leaders to work with governments to develop solutions that will ensure our future competitiveness in the Internet economy.

Dr. Chris Simpson and **Owen Adams** examine the legacy of health accords and the emerging pressures on Canada’s health care system.

Having recently returned from election monitoring in Ukraine, Liberal MP **Chrystia Freeland** explores the nature and extent of Canada’s influence in the world.

As a form of tribute, we present the text of a 2011 speech in which the late **Jim Flaherty** spoke to UWO students about the merits of public service.

Enjoy your summer!

James Anderson, Managing Editor

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Jim Flaherty



Credit where credit is due

An analysis of Jim Flaherty's response to the Global Financial Crisis

Stanley Hartt suggests that credit is due to late former Finance Minister Jim Flaherty for the deft management and pragmatic measures he demonstrated in an effort to keep Canada insulated from the worst effects of the Global Financial Crisis.

Stanley Hartt

When Jim Flaherty ended his spectacular run as Canada's, and, arguably the world's, most successful Minister of Finance, some commentators suggested that Canada had reacted too late to the great recession which commenced in 2007/2008 and soon engulfed the entire globe. Others pointed out that our ultimate determination that massive stimulus was needed by the time of Budget 2009 was an over-reaction and, by running excessive deficits, obliged us to embark on an austerity binge that would otherwise have been unnecessary. Both arguments are wrong.

Let's remember how all this began: some of the world's leading financial institutions, notably but not exclusively in the U.S., effectively blew their brains out by allowing themselves to become enamoured with financial engineering and create, and sell to the public and to each other, sub-prime mortgage-backed

securities in what were called Structured Investment Vehicles (SIVs). Credit enhancement techniques – creating tranches bearing different levels of risk and compensated at varying rates of return – were used to create senior tranches rated as AAA (because they would have been the last to absorb losses), but poor, often non-existent, underwriting ignored the obvious fact that, when the entire edifice is rotten, the top is not materially safer than the bottom. The collapse of the market for these inherently unsound offerings led to disastrous loss of value and brought the world economy to the brink, compromising the banks' very existence.

Canadian banks were only peripherally involved, not by originating these dodgy securities, but sometimes by buying them from the big-name bulge bracket firms as a "sound" investment. Other Canadian institutions eschewed the opportunity to join the dance party and demonstrated the discipline to distance

themselves from the profit frenzy their U.S. colleagues were embracing and encouraging.

Our own asset-backed commercial paper (ABCP) crisis arose not from the sale of investments whose underlying value was questionable, but from the mismatch of longer-term assets being financed with short-term commercial paper. The 9-to-15 year leases behind the asset-backed securities were solid enough, but the paper funding them had to roll every 60 or 90 days, and the one connection between the American SIVs and our own ABCP was that, when the credit crisis hit, the appetite in the market to back securitized *anything* froze. Canada's solution, under the able leadership of Purdy Crawford, was entirely independent of what was engulfing the rest of the world's credit markets.

But when the ill-conceived American instruments destroyed that country's housing market and all those with a stake in extending credit to it or participating in it, the pain spread rapidly. The question was, would Canada slip into recession alongside its trading partners because the sharp contraction of available credit transcends borders quickly.

It is often said that Minister Flaherty assumed that Canada would skate safely past the crisis, but that is also untrue. In his Economic Statement of November 27, 2008, Minister Flaherty demonstrated that he was acutely aware of the scope and extent of the crisis, and pointed out that, "An unexpected credit crunch in the summer of 2007, and a U.S. recession sparked by a plunge in the American housing market, have spread throughout the world." Although, based on a consensus forecast of private sector economists, he predicted only a modest recession for Canada, (a "technical recession, with negative growth in the fourth quarter of 2008 and the first quarter of 2009"), he introduced extremely significant measures to counter the downturn.

He pointed out that stimulus was already inherent in the government's prior budgets, represented by lower debt levels, tax reductions, a program to purchase existing mortgage pools from lending institutions and the creation of an assurance facility to offer insurance on a temporary basis on wholesale term borrowing by Canadian banks. Borrowing limits for the EDC and BDC were

also increased.

The most important take-away from the Economic Statement was its declaration that, "Businesses need credit to invest or to meet their payrolls. Families need it to take out mortgages and loans." So when the extent and severity of the crisis became more

apparent with time, and the private sector consensus forecast weakened dramatically, Flaherty acted, in Budget 2009.

Aside from stimulus provided by direct spending on such things as infrastructure and a long list of other initiatives, Minister Flaherty was focussed on access to financing. He understood that no business, large or small, tends to keep enough liquid cash on hand to finance inventories and receivables, cover overheads, and manage payroll costs. Even the most credit-worthy borrowers

could, if credit became difficult enough to obtain, be faced with liquidity crunches bordering on insolvency. When credit markets imploded, some of the largest U.S. money-centre banks took self-protective measures restricting their operations and exposure to risk. Treasurers drew committed lines of credit, paying higher costs for the assurance that the cash was in their jeans rather than in a contractual obligation from a bank. Some U.S. institutions left Canada altogether, as a way to circle the wagons around the "mother-ship" at head office.

To combat the phenomenon of a deteriorating credit environment, Budget 2009 created the Extraordinary Financing Framework, consisting of up to \$200 billion in strategically targeted measures to keep credit flowing to creditworthy borrowers. The mortgage purchase program was enhanced by a further \$50 billion, to bring the total, with the previously announced facility, to \$125 billion. \$13 billion was added to the resources of CMHC, BDC and EDC, including a \$5 billion Business Credit Availability Program, to be deployed in cooperation with private sector lenders. The deadline applicable to the insurance program for banks was extended and a similar facility created for insurers.

Then there was the Canadian Secured Credit Facility (CSCF)

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and extent of the crisis."*

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Canada needs a Financial Innovation Institute

The answer to overcoming the stifling effect of Super-Regulation in the Financial Sector

Less visible to regulators and governments than the traditional areas of risk management has been the increasing threat posed by inattention to the impact of super-regulation on innovation in financial services. The author suggests that the federal government could put Canada in the forefront of 21st century financial institution leadership by establishing a Financial Innovation Institute.

Richard Remillard

The biggest threat to our financial system today comes from its “super-regulation” by an army of domestic and international officials. The source of that threat, paradoxical as it may seem, is the relentless quest by the regulators to identify and eliminate the currently perceived risks that are viewed as inherent in financial institutions and their activities.

Taking issue with the regulation of the financial services industry is an unpopular stance, as the entire financial services industry has undergone a severe beating in public opinion ever since the near economic meltdown of 2008–9. After all, who can forget the “vampire squid” sobriquet that was hurled at Goldman Sachs for its assumed role in the debacle and which became emblematic of the mistrust towards the financial sector experienced by governments and regulators in addition to the general public? Governments have reacted to the series of unfortunate events that took place in 2008–9 by progressively tightening the web of regulation that entangles the financial services industry that has gone from being merely “highly-regulated” to being “super-regulated”.

And, who can argue against the facts? Coming out of the economic near-death experience of 2008–9, which saw financial institution failures in the United States and Europe on a scale unlike anything over the past 70 years, there was not a single bank, insurance company or mortgage guarantor failure in Canada. Of course, these failures internationally have had severe repercus-

sions on a host of economies from Ireland to Spain and Cyprus to say nothing of the United States itself, where the after effects of the shock linger in stubbornly high levels of unemployment and underemployment.

Canada can pat itself on the back for having dodged a couple of very large bullets on this score. Public capital markets (TMX) swooned by 30 percent and financial losses were suffered to those holding one specific product – asset-based commercial paper (ABCP) – where the market seized up. But, the lesson of 2008–9 was that Canada had got it right when it came to the



THINKSTOCK

tight supervision and regulation of its financial sector(s).

And so, more of the same would seem to be in order.

At this point, it is worth recalling that regulated financial institutions, such as banks and trust companies, can have multiple layers of oversight and controls over their operations. These include:

- senior management and Boards of Directors;
- internal audit;
- corporate compliance;
- external audit;
- Office of the Superintendent of Financial Institutions;
- FINTRAC;
- Financial Consumer Agency of Canada;
- domestic (e.g., Ontario Securities Commission) and international securities commissions;
- international bank supervisors (Basel).

But, it might be time to step back and not let ourselves get carried away by smug self-satisfaction. To date, the main visible cost of super-regulation has been borne by smaller financial industry players which have quite simply not been able to juggle regulatory reporting requirements and the associated costs, including in management time and attention, with attending to the imperatives of expanding their businesses. While regulators are beginning to recognize that one size doesn't fit all, the process of tweaking the present system has only just begun.

Less visible to regulators and governments than the traditional areas of risk management such as capital adequacy, liquidity, operational risk, credit risk, outsourcing and related party transactions and the like have been the increasing threat posed by inattention to the impact of super-regulation on innovation in financial services.

Innovation in financial services has several meanings. These include new technologies (e.g., ATMs), new products (options) and new processes (on-line banking). Too often, particularly in government circles in recent years, financial innovation has been associated with the tax-driven creations of smart Bay Street lawyers – income trusts spring to mind here.

Looking back to the past, the smaller financial institutions had developed a reputation for driving a considerable part of the

innovation in Canada's financial sector as they sought for ways to more effectively compete against established, more well-known players. The level playing field of regulation has had an unequal

impact on the smaller, more nimble firms who have had to contend with a regulatory compliance burden that has been robbing them of their ability to focus on bringing innovative experiments to the industry. However, the smaller firms are simply the 'canaries in the mineshaft' for what has befallen them is about to land on the largest firms in the industry as well.


The challenge today is much more than the hobbling of the smaller firms that have disproportionately been Canada's financial innovators. We live in an era of rapid-fire, discontinuous, disruptive,

business-model destroying change. Business cemeteries are littered with the corpses of former titans felled either by their clinging to an old way of doing things or to old products that no longer met customers' needs or by backing the wrong new technologies. Remember the Encyclopedia Britannica.

In successfully adapting to today's world, corporate survivors, large and small alike, will need to continually re-invent themselves, turn themselves upside down and inside out. This is precisely what has been happening in the technology industry where the world has watched Google battle Apple battle Facebook battle Microsoft for winner-take-all supremacy.

This ferocious competition is now spreading out from the technology industry to all industries, including financial services, with the prospect of Facebank, Bitcoin and Crowdfunding quickly emerging. The lesson of the technology wars is that trailblazers may win or lose but followers, or late-adopters, never win. This lesson is coming to the world's financial industry and is coming fast.

In short, all successful firms will need to take the risks that come with experimentation and early adoption of the newest technologies, processes and products. However, the financial super-regulation system is expressly designed to frustrate such risk-taking by lengthy approvals, by constant second-guessing and by instilling in financial institutions themselves a culture of deep aversion to anything that challenges the status quo. The result is: shorter-term gain for longer-term pain. Without a full-bore



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commitment to financial innovation, the revolutions when they come will be more gut wrenching and jarring than they otherwise need to be. That being said, it is important to recognize upfront that hand-in-hand with innovation comes uncertainty and with uncertainty comes winners and losers.

We need to ask ourselves:

- How innovative is Canada's financial system today?
- Is Canada's financial sector as innovative as it could be or as innovative as it needs to be?
- What steps can we take to restore financial sector innovation to its rightful place?

The place to start might be to look back four years when, in the wake of the economic crisis, the federal and Ontario governments in partnership with the private sector set up the Global Risk Institute in Financial Services. So, too, should the federal government today play a catalytic role in setting up a world-class Financial Innovation Institute whose mandate would be to identify, back and promote the adoption of the "new" and

put Canada in the forefront of 21st century financial institution leadership. This Financial Innovation Institute would play to two strengths in Canada today – a financial system that is second to none and a commitment to innovation, including the technological variety which has grown by leaps and bounds in recent years. ✱

Richard Remillard is President of Remillard Consulting Group (RCG), an Ottawa-based firm that was re-activated in 2014. RCG, whose clients have included OSFI and several Canadian and international banks, specializes in financial sector public policy solutions. Remillard previously served as Executive-Director of Canada's Venture Capital and Private Equity Association, Vice-President with the Canadian Bankers Association, Special Assistant to the Minister of Finance, and as a manager with the Bank of Montreal. He has sat on several Boards, including MRS Trust, the Sierra Club of Canada Foundation, and the Rideau Club. He has degrees from McGill University and the London School of Economics and Political Science.

Credit where credit is due (Hartt)

Continued from page 5

of \$12 billion, intended to replace the now dried-up conduits whereby large and small originators of loans or leases for the purchase or leasing of vehicles and equipment had securitized their paper, so as to generate fresh capital to deploy. This facility was handed to the BDC to administer.

In the budget of January, 2009, Jim Flaherty also announced that, "To help manage the EFF, the Government will form the Advisory Committee on Financing", a group of ten Chairpersons, CEOs and CFOs (chaired by the author of this article). The Chair of Manulife Financial, the CEOs of GE Canada, Sobeys, AIMCO, and the Montreal Exchange, the CFOs of Enbridge, Great West Life and BCE, were joined by an outstanding representative of the small business community. When the Committee found that the CSCF was not adequately ensuring that credit was available to smaller originators of leases and loans for vehicles and equipment, intended to benefit from this program, Minister Flaherty created a new \$500 million facility in Budget 2010, to be matched by the private sector, which provided much-needed relief and encouraged the commencement of the return to normalcy of markets for this kind of paper.

One of the most important features of this comprehensive list

of initiatives is that very little of it represented a structural change in government outlays and programs and most of it was able to be phased out at predictable sunset dates as the various aspects of the stimulus were scheduled to expire.

So the accusation that the Canadian plan was too much too late is inaccurate in the extreme. The Minister arranged for credit to be available to Canadians when it otherwise would not have been and for this deserves the credit to which his legacy is entitled. The return to fiscal balance has not been easy, but the nation is now in the fiscal year where the deficit will be eliminated. What remains is one of the most solid financial systems in the world, impacted, of course, by the events of the Global Financial Crisis, but strong and intact to a significant extent because of the form and breadth of the measures Jim Flaherty summoned up to address them. ✱

Stanley Herbert Hartt, OC, QC is a lawyer, lecturer, businessman, and civil servant. He currently serves as counsel at Norton Rose Fulbright Canada LLP. Previously Mr. Hartt was chairman of Macquarie Capital Markets Canada Ltd. Before this he practised law as a partner for 20 years at a leading Canadian business law firm and was chairman of Citigroup Global Markets Canada and its predecessor Salomon Smith Barney Canada. Mr. Hartt also served as chairman, president and CEO of Campeau Corporation, deputy minister at the Department of Finance and, in the late 1980s, as chief of staff in the Office of the Prime Minister.

Understanding the Duty to Consult

In the ongoing discussion of Canada's massive natural resource potential, the current possibilities for development of this potential, and the possible benefits for Aboriginal Canadians arising from this development, the "duty to consult" doctrine is a widely-referenced yet also widely-misunderstood concept. In a May 2014 paper for the Macdonald-Laurier Institute – entitled "The Rule and Role of Law: The Duty to Consult, Aboriginal Communities, and the Canadian Natural Resource Sector" – Dwight Newman examines the nature, uses, challenges and limits of the doctrine. The following is the Executive Summary and Recommendations from the paper.

Dwight Newman

In the close to 10 years since the Supreme Court of Canada first gave it modern form, the "duty to consult" has been constantly referenced in the media, constantly considered by natural resource project proponents, and constantly misunderstood. What is undeniable is that the doctrine will play a key role in the nation's efforts to unlock the vast potential of its natural resources, and bring prosperity to Aboriginal people in Canada.

The duty to consult, in its modern form, requires governments to take the initiative to consult with Aboriginal communities prior to government decisions that might affect Aboriginal or treaty rights, even when the legal status of these rights is in question. A 2004 case, *Haida Nation v. British Columbia*, first enunciated the duty to consult in this manner, and it has since developed in case law.

While much of the doctrine is nuanced, still developing or open to interpretation, several misconceptions about the doctrine can and must be corrected. To be blunt, anyone who perpetuates misunderstandings about the duty to consult is standing in the way of Canada's future.

For example, many believe the duty to consult provides a veto over development proposals, while the courts have consistently reiterated that it does not.

On the flip side, others argue that the duty is meaningless,

because the government ultimately has the authority to go ahead and approve a project, even after consultation has revealed issues to be addressed. But the fact that governments are legally required to act in good faith means that they must take account of the issues identified in consultations.

Many believe the duty applies to existing projects or past breaches of treaty rights, but the courts have been clear that only new potential impacts can trigger the duty to consult.

And perhaps the most damaging misunderstanding about the constitutional duty to consult is that it will be wielded by Aboriginal peoples who are by nature opposed to development to consistently thwart progress in accessing Canada's rich resources. In January 2014, the media paid enormous attention to Neil Young's concerts to stop oil sands develop-

ment, while around the same time, the Fort McKay First Nation held a conference on how it can participate in the economic opportunities offered through partnership in oil sands development. The Macdonald-Laurier Institute's *Aboriginal Canada and the Natural Resource Economy* series, including this paper, has been an effort to make the case for productive Aboriginal engagement on these issues.

What the duty to consult does is provide protection for key



Aboriginal interests, and create a lever to cause Aboriginal communities, government and businesses to come to an agreement over resource projects that benefit all parties.

The interaction between Aboriginal Canadians and resource development has not been all rosy. Bitter confrontations around various developments get headlines and slow projects. From anti-fracking protests in New Brunswick to legal and political confrontations related to the Ring of Fire in Ontario to Aboriginal protests against the Northern Gateway Pipeline in British Columbia, these situations show Aboriginal Canadians making their voices heard in opposition to projects when there are concerns with their impact.

But there are many practical examples of ways the duty to consult has played out that offer lessons for the future – for how some things can go right, how some things can go wrong, and how to work towards more of the former.

Recommendations

Several key recommendations emerge from this study. First, this paper is a call for all to speak about the duty to consult in responsible ways rather than to perpetuate misunderstandings. The duty to consult can protect certain core interests of Aboriginal communities while asking Canadian governments always to be more engaged with Aboriginal issues. Those engaged with the duty to consult, including the scholarly community, must engage with it in rigorous ways that describe it accurately, try to study objectively the policy impacts of different approaches to the duty to consult, and continue to make constructive recommendations on different approaches that respect the broad public interest.

Second, despite the fact that it is a legal doctrine, the duty to consult needs to be approached in less technical ways. The history of how the duty to consult has worked suggests that those who attempt to draw upon the spirit of the duty to consult may well attain better outcomes than those who attempt to follow the letter of the law or what they see as the minimum legal requirements for consultation and accommodation. Governments and industry stakeholders who

engage early with Aboriginal communities find trust and relationships that help contribute to better outcomes for all.

For their part, Aboriginal communities need to recognize that the courts' decision to adopt the duty to consult, rather than a system of injunctions, means that governments still have the power to make many decisions. With this understanding they can engage with governments and industry in seeking protection of key interests while otherwise leveraging the duty to consult in the context of working collaboratively on natural resource development that contributes to widespread prosperity.


Third, the courts should be very cautious about continuing to expand the duty to consult doctrine into new contexts. Courts need to leave flexibility for governments to design appropriate procedures for complex scenarios involving multiple Aboriginal communities. Vital transportation infrastructure, such as new pipelines, depends

upon all taking reasonable approaches.

The evolution of the duty to consult continues, but what is increasingly clear is that, used properly, it can support a new era of partnerships that offer win-win-win outcomes from business-Aboriginal-government collaboration in the well-managed development of Canada's natural resource potential. ✱

Visit the Macdonald-Laurier Institute website to read the entire Duty to Consult paper.

Dwight Newman is a Professor of Law and Canada Research Chair in Indigenous Rights in Constitutional and International Law at the University of Saskatchewan. He has published a number of books and numerous articles on constitutional law, international law, and Indigenous rights issues. His 2009 book, *The Duty to Consult: New Relationships with Aboriginal Peoples*, won a Saskatchewan Book Award and has been cited in many court decisions; a revised and expanded version of that book, *Revisiting the Duty to Consult Aboriginal Peoples*, was released in May 2014. He holds an economics degree from Regina, a law degree from Saskatchewan, and three graduate degrees in law from Oxford, where he studied as a Rhodes Scholar. He is a member of the Ontario and Saskatchewan bars.



There are many practical examples of ways the duty to consult has played out that offer lessons for the future – for how some things can go right, how some things can go wrong...”

Is Inequality a Problem in Canada?

The authors examine empirical data as they set out to determine whether inequality is a societal problem that merits interventionist responses designed by Canada's policy makers.

Ian Lee and Vijay Jog

The debate concerning the alleged rapidly escalating inequality between the top and the bottom members of society, popularized as the 1 percent and the 99 percent continues with no end in sight.

The origins of the campaign can be traced to an anti-consumerist Canadian NGO called Ad Busters that promoted the now infamous Occupy Wall Street campaign with the slogan, “we are the 99 percent”.

The recent focus on the inequality debate was driven by a belated reaction to the financial crisis of 2009 and the U.S. bailout of some very large banks and the subsequent large bonuses paid to banking executives (as well as some S&P 500 CEOs) in the U.S. in the following years. It must be noted this is not a new phenomenon for the U.S. has been a comparative outlier with significantly greater levels of inequality than other OECD countries for a long time. (The standard measure of inequality between the top and bottom in any society is the GINI coefficient).

Ironically, a debate started by a Canadian NGO in the U.S. – relying on American data – was imported to Canada. The proponents argued that not only was inequality between top and bottom increasing but the middle class was hollowing out and experiencing income decline. To critics, the policy solution appeared obvious – governments must intervene and redistribute income from the ‘haves’ to the ‘have-nots’, from the top to the middle and bottom. Given that the 99 percent dwarf the 1 percent arithmetically, it is odd that the critics advocate policy responses which focus on redistribution of existing income rather than growth policies to expand the economy and incomes overall.

However, this debate – as with every public policy debate – requires careful empirical examination of reliable, authoritative data from national statistical agencies before we can come to any conclusions and propose tax policy-based solutions.

First, we must address the very complex question concerning the definition of income. Should we include income before or after taxes and transfers provided through the tax act (e.g. HST rebate, child tax credit)? Should we include social assistance or employment insurance or any social benefits received in the definition of income? Should we include wealth gains such as capital gains on investments or increases in the value of one’s home or cottage? Should we be measuring the income of individuals or households?

These are very important questions for the answer affects the outcome of the measurement of income distribution in Canada (and the U.S., for that matter).

We believe that the most representative measure of income should be defined as “post-tax, post-transfer, size-adjusted household income”, for it takes into account actual income that can be spent including government transfers via the income tax and/or by government programs such as unemployment insurance income. Moreover, we must also account for the accumulated wealth including equity in a home, notwithstanding that 69 percent of Canadians own their home. We will return to this later.

Now let us look at the evidence.

Let us start with what should be the most obvious issue in this debate. Canada is not the U.S. and thus we cannot rely upon or use American distribution of income to discuss the distribution of income in Canada.

Over the past 40 years, the number of people below the poverty line in Canada decreased from 25 percent in the mid-1960s to 8.8 percent in 2012, representing an unprecedented reduction in poverty in Canada or any country. A significant contribution to the overall reduction in poverty was achieved through the introduction of old age security and the guaranteed income supplement in the late 1960s that reduced elder poverty

to the third lowest in the OECD at 7.2 percent of elders in 2013.

However, when we examine total medium family income over the past 30 years, we see a disturbing trend. Expressed in 2009 dollars with inflation removed, Statistics Canada reports the median total family income for all family units increased over 30 years from \$52,600 in 1976 to \$54,000 in 2009. This data clearly shows that incomes have barely increased at all. Yet, when the data is analyzed more carefully, as Professor Stephen Gordon has done, two trends are revealed during the past 30 years. During the 1980s and 1990s, incomes actually declined dramatically and then slowly but steadily recovered during the succeeding years, evidencing a U-shaped pattern of decline followed by recovery.

Very recently, the New York Times and the Luxembourg Income Study Group (LIS), corroborated Professor Gordon, for they found that median income, after taxes and inflation, rose 20 percent in Canada in the decade to 2010. Moreover, they found that middle class incomes on average were highest in Canada of all the countries studied – including two Nordic countries.

The review of the data empirically demonstrates Canadians are, on average, better off than ever before. However, since averages can be deceiving, we need to analyze how Canadians are doing within the different “income classes”.

According to the Statistics Canada National Household survey 2011, 10 percent of Canadians had total income of more than \$80,400 in 2010 — approximately 3 times the national median income of \$27,800. Canadians with total income of \$102,300 and above were in the top 5 percent while those with incomes of \$191,100 were in the top 1 percent, or approximately seven times the national median income. In contrast, to be classified in the top 1 percent in the U.S. requires income above \$383,000.

When we further examine those Canadians who are in the 1 percent, Statistics Canada data reveal they are highly educated with 67.1 percent of the top 1 percent having completed a university degree relative to only 20.9 percent of all Canadians aged 15 and over. The data reveal the overwhelming majority (87.7 percent) in the top 1 percent belong to a small number of occupations: management (38.8 percent); health (14.3 percent); business, finance and administration (13.7 percent); education, law and social, community and government services (11.0 percent); and natural and applied sciences (9.9 percent). Yet, these five groups accounted for only 51.9 percent of all Canadian workers.

This evidence deconstructs the mythical narrative of a cabal of wealthy capitalists -- the one percenters -- growing ever

wealthier while counting their dividend cheques and capital gains. Rather, it reveals that, increasingly, the top 1 percent are highly educated wage earners – not capitalists – and come from health care, education, social services and public sector. Ironically, those elites who criticize inequality are increasingly from these groups -- e.g., professors and NGO leaders. Or, as Pogo said, “we have met the enemy and it is us”.

We now turn to the wealth measure. While there exists a serious debate within national statistical agencies and the scholarly community concerning whether assets should be included or excluded in measures of income, there is no doubt that assets are real and can be converted into cash to be spent on consumption or for retirement.

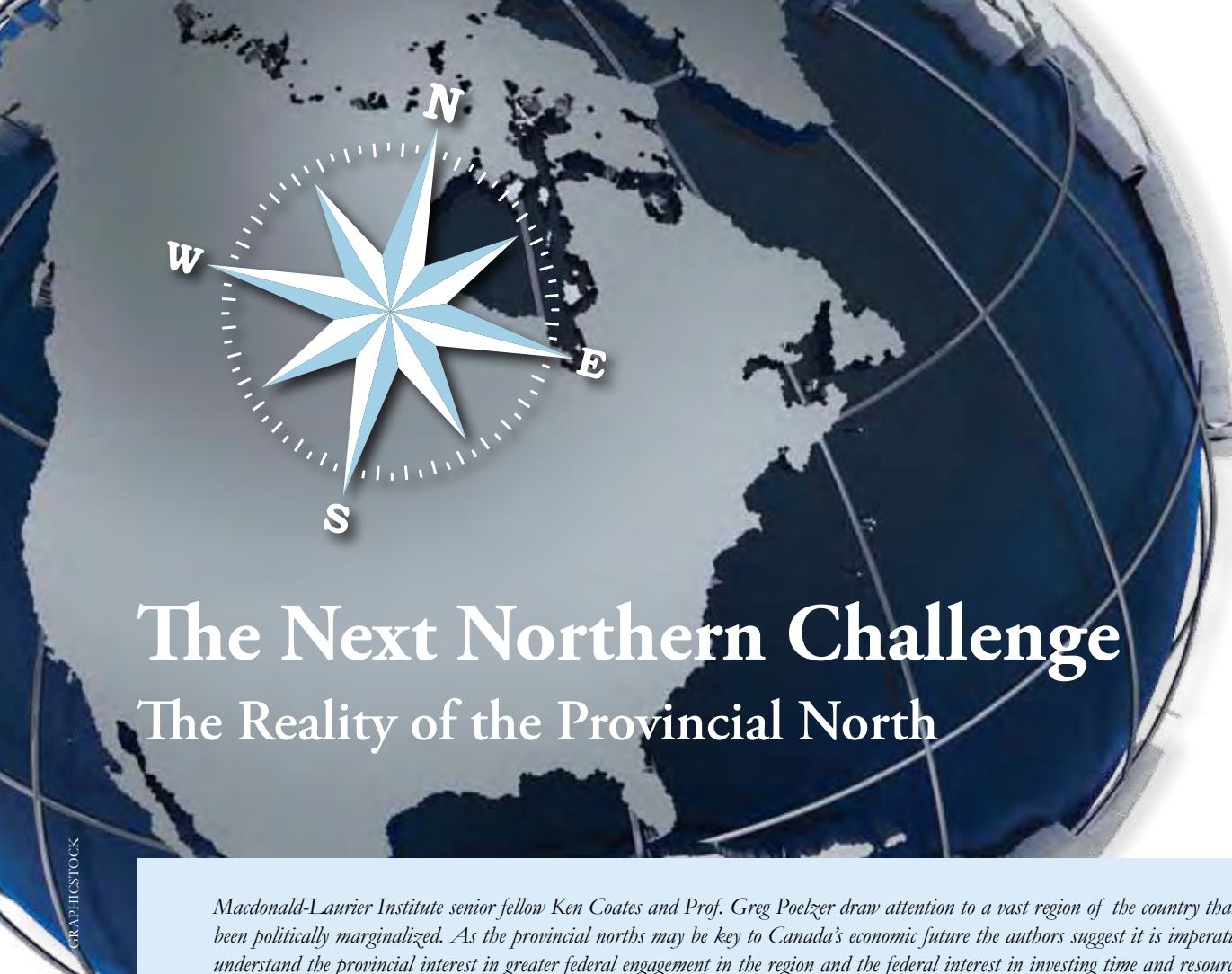
When we examine the most recent Statistics Canada Survey of Financial Security, we learn that the median net worth of Canadian households increased from the 1999 median of \$137,000 to \$243,800 in 2012, up 44.5 percent from 2005 and almost 80 percent more than 1999, stripped of inflation.

Finally, the analysis of both income and wealth does not attempt to measure automatic increases in our standard of living caused by technological advancements such as Internet, mobile communications, far safer automobiles, better drugs that reflect in metrics such as reduced infant mortality, reduced number of automobile deaths, increased life expectancy, et cetera.

The summary review provided herein reveals that any public debate that does not critically and clinically analyze empirical evidence may lead us astray and, even worse, lead us to design policies and intervention that may be completely inappropriate. In this particular debate on income inequality, the review of the Canadian data reveal a country with the highest average middle class income in the world with one of the highest standards of living in the world and where the 1 percent are not just capitalists but those who belong to the professional classes where education and long hours leads to higher income. ✱

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Dr. Jog is the Chancellor Professor at the Sprott School of Business at Carleton University. Dr. Jog has been published extensively in national and international journals, and has over one hundred articles, monographs, and books to his credit. He also consults globally for both public and public sector organizations.



The Next Northern Challenge

The Reality of the Provincial North

Macdonald-Laurier Institute senior fellow Ken Coates and Prof. Greg Poelzer draw attention to a vast region of the country that has been politically marginalized. As the provincial norths may be key to Canada's economic future the authors suggest it is imperative to understand the provincial interest in greater federal engagement in the region and the federal interest in investing time and resources in the uncertain prospects of improving conditions in the region.

Ken Coates and Greg Poelzer

For the last 40 years, Canada has devoted considerable resources and much effort to improving governance in the territorial North, while leaving the larger, more populous, and more economically productive provincial North as the least politically powerful part of Canada. The territorial developments include the creation of Nunavut in 1999, major land claims settlements across much of the region, a new Yukon Act, devolution of many government powers (including administration – but not ownership – of land and non-renewable natural resources to the Yukon and Northwest Territories), Aboriginal self-government agreements, and large-scale fiscal transfer agreements. While there are promising developments in parts of the provincial North, particularly Labrador and northern Quebec, much of the region continues to experience political marginalization, with the associated social and economic problems.

Canadians hear about the provincial North episodically. The

controversies over the Alberta oil sands, the potential of Quebec's Plan Nord, the Voisey Bay mine in Labrador, the hotly debated Northern Gateway pipeline project, and the recruitment of Chinese workers for mines in Northern British Columbia (BC) provide regular reminders of the region's economic potential and impact. Controversies surrounding Aboriginal living conditions in Attawapiskat, Kashechewan, Davis Inlet, and many other remote settlements highlight the intense socio-economic challenges in the provincial North. There has been some writing on this subject, including the coverage of the region in Morris Zaslow's excellent histories *The Opening of the Canadian North* (1971) and *The Northward Expansion of Canada* (1988) and the more focused study on the region, *The Forgotten North*, by Ken Coates and Bill Morrison (1992). These works and useful local studies have drawn some attention to the evolution of the internal colonies of the provincial Norths.



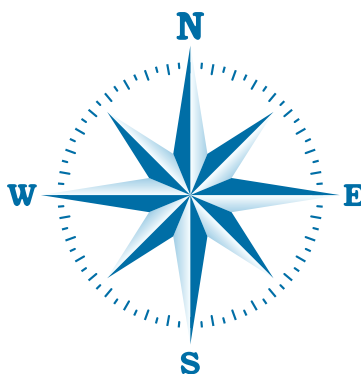
The Provincial North: What is the provincial North?

A brief definition of the provincial North is required. Scholars have argued about the appropriate boundary of the North, variously using politics (the territorial North), climate (the border of commercial agriculture), or geographic considerations (the line of discontinuous permafrost). Geographer Louis-Edmond Hamelin devoted a complex and compelling index of “nordicity,” which combined such factors as weather/cold, isolation, fauna, and socio-cultural considerations. We have opted for a geographical-political definition, using provincial government designations to delineate those parts of the country that qualify as the provincial North. Provinces generally have at least one administrative area, such as Saskatchewan’s Northern Administration District, that covers almost half of the province but has a population of fewer than 40,000 people, that has become synonymous with the northern part of the province. While there are some variations worthy of note (Prince Rupert has a Maritime climate and is not “northern” in weather terms; Thunder Bay is a substantial city, tied to major transportation networks and with a strong industrial economy and is generally not considered northern despite a sub-Arctic climate) these administrative definitions encompass a vast expanse of Canada that shares northern climates, political margin-

alization, large Aboriginal populations, a substantial dependence on resource economies, and Arctic and sub-Arctic landscapes.

Inside the provincial North, there are key demographic divisions that are important to note. Along the southern fringe of the provincial North (and just below the line in some instances) are substantial communities, often key administrative centres, with large non-Aboriginal populations. These centres – including Goose Bay/Happy Valley, Sudbury, Thunder Bay, Prince Albert, Grande Prairie, Prince George, Dawson Creek, Fort St. John, and Prince Albert – are economically and politically important. Other major resource communities – including Thompson, Timmins, Fort McMurray – likewise are primarily non-Aboriginal. In the northern reaches of the Provincial North, most of the people and communities are Aboriginal, with markedly different economic, social, and cultural dynamics from the largest centres. The provincial Norths, therefore, are not homogenous units, but rather diverse, even fractured, regions, facing distinctive challenges, opportunities, and social characteristics.

The provincial North, despite the lack of national attention to the region, is of great importance to Canada’s present and future. The vast sub-Arctic expanse has close to 1.5 million residents, holds enormous resource potential in oil and gas, forestry, mining, and hydro-electric development, is home to dozens of cultural-



ly distinct First Nations, Métis, and Inuit groups, and is facing enormous pressures for change. Politically, if this region were a province, it would have more Members of Parliament than any of the Maritime Provinces.

While individual provincial Norths, particularly Labrador, Quebec, and Alberta, have become central to provincial aspirations and economic development strategies, the other regions languish with insufficient attention. Ontario, where the Ring of Fire mining development has the potential to bring economic growth to a province that sorely needs it, has recently devoted little political effort to addressing northern concerns. Manitoba, which has a string of Aboriginal communities in considerable distress, has made overtures to the region, particularly on the educational front, but with little to show for the investment to date. Much the same holds for Saskatchewan, where the private sector is a greater driver of regional development than government, and northern British Columbia, which continues to accelerate resource development despite the continued dislocations in Aboriginal communities. In no other part of the country, including the territorial North, is there as strong a juxtaposition of economic opportunity, regional distress, and political marginalization.

Who is responsible for the provincial North?

The provincial North does not belong to any one province. A crisis in Labrador is a task for the Government of Newfoundland and Labrador and, if First Nations people are involved, usually the Government of Canada to work out. The ill-suited highway system leading to Fort McMurray is the responsibility of the Government of Alberta and does not register on Quebec's list of concerns. Distressingly poor Aboriginal educational outcomes in northern Saskatchewan fall at the feet of the federal Aboriginal Affairs department and, to a lesser extent, the Government of Saskatchewan, but do not so much as raise an eyebrow in southern Ontario.

The most fundamental territorial political and administrative problems – land claims, Aboriginal self-government, Arctic sovereignty – are seen as federal responsibilities. Difficul-

ties and opportunities in the provincial Norths, in contrast, are the responsibility of the appropriate provincial authorities. The Constitution, to put it simply, defines political actions and administrative structures in the provincial Norths. This is a simple reality of Canadian political life and has been used for generations to both limit coordinated federal-provincial action and to therefore limit the responsiveness of government to some of the most serious socio-economic challenges and some of the most


promising economic opportunities in the nation.

The simple problem is that the forgotten provincial Norths are operated as internal colonies. The regions themselves have little autonomy – Labrador and Quebec being partial exceptions – and political power rests in provincial capitals in the South. Even Alberta, with the northernmost provincial capital in Canada (Edmonton is farther North than the southern reaches of James Bay in Ontario and Quebec), has devoted little

effort to empowering its provincial North. There have been various regional schemes and strategies, northern departments, and administrative restructuring, but all of them have left the basic problem untouched: no regions in the country have less direct control over their futures than the provincial Norths.

Southern-based governments, historically, have been preoccupied with economic development and resource exploitation, capitalizing on the mineral, forestry, and hydroelectric potential of the region. Quebec would be in severe economic difficulty without the power generated from the northern power stations, as would Manitoba and British Columbia. Saskatchewan's uranium and other mining activities are key parts of the province's economic growth, and Alberta's economy is focused largely on the development of the oil sands. All of these projects and many others send hundreds of millions of dollars a year in tax revenue into provincial coffers, creating a provincial interest in maintaining control over the pace and nature of development. In each provincial North, Aboriginal and municipal politicians struggle to get their issues on provincial agendas and have difficulty gaining the attention or resources needed to address urgent needs.

This does not mean that the provincial North is without



That Canada does not have a federal plan for the provincial Norths is a huge public policy gap in this country.”

governance and political accomplishments. In 1990, the eight Métis Settlements in northern Alberta gained municipal-style self-government and a land base – the only Métis in Canada to do so. The Nisga’a Treaty, which came into effect in 2000, provided a dramatic recasting of Aboriginal governance and cultural authority. Loud protests and claims that the treaty would harm Northwest British Columbia came to naught, as the accord has provided the foundation for an impressive transformation of Nisga’a affairs. The signing of the Nunatsiavut land claims agreement in Labrador in 2005 has fundamentally altered the power balance in the region, giving the Aboriginal population access to jobs, revenue, and self-government, constrained by the economic and social realities of life in the region.

By far the most dramatic restructuring occurred in northern Quebec where, more than 35 years after the James Bay and Northern Quebec Agreement empowered Cree and Inuit residents and communities, the region has emerged as the most innovative, locally-controlled, and forward-looking jurisdiction in the provincial North. Manitoba has tried several approaches to improving conditions in the northern reaches of the provinces, focusing in particular on education (including post-secondary education) and compensation packages associated with the major hydroelectric projects in the area. The efforts have not enjoyed much tangible success to date.

In the rest of the northern provinces, policy initiatives focused on these under-developed regions languish. Ontario has made little progress; it is not a surprise that the most high-profile crises in recent years – Kashechewan and Attawapiskat – are from northern Ontario, an area dotted with impoverished and ill-supported Indigenous communities that are now facing intense development pressures. Northern Saskatchewan, the focus for extensive provincial government regional strategies over the years, remains one of the poorest parts of the country, albeit, with a few exceptions, without the full community distress that has been witnessed in recent years in Labrador, Ontario, and Manitoba.

Alberta’s massive and unrelenting northern resource boom has masked the comparative ineffectiveness of government policies aimed at the permanent residents of the region, most of whom

share in little of the wealth and opportunity being generated in the area. The situation is much the same in the vast expanse of northern British Columbia, where the First Nations populations have yet to benefit from the now two-generations-old resources and development boom. Northern British Columbia, like Manitoba, has made significant investments in post-secondary education and, like Saskatchewan, has had a series of northern development strategies, none of which have had a sustained impact on the region.

The Role of the Federal Government

What is particularly puzzling is the comparative absence of the Government of Canada in the Provincial Norths. The federal gov-

ernment has a special constitutional relationship with the territories and has pursued its responsibilities there very aggressively in recent decades, to the point where money, devolution of government responsibilities, legal agreements with Aboriginal communities, and constitutional flexibility are no longer major barriers.

Across the vast and resource-rich provincial North, in contrast, the Government of Canada has a minimal presence. Ottawa handles all of its legal and formal responsibilities – for First Nations health care, water management, and

regulation of foreign ownership in the resource sector, for example – with greater or lesser degrees of success and attention. But the country has not, since the days of Prime Minister Diefenbaker’s Roads to Resources program, had a sustained interest in the socio-economic development of the region. The oddity of a massive federal presence in the territorial North and minimal on-the-ground activities just a few miles to the south is one of the most surprising and little discussed realities of Canadian political life.

Experts on Canadian federalism would quickly respond that this is simply the consequence of the division of power between the federal and provincial governments and that the constitutional responsibility lies with the provinces – end stop. Notwithstanding these constitutional realities, the absence of a national strategy for the provincial North might be reasonable if not for two fundamental problems: the comparative poverty of Aboriginal communities in the region and the centrality of the resource potential of the area

“The fundamental barrier to comprehensive attention to the challenges of the provincial North lies in the constitutional realities of Canadian federalism.”

“Devolution to local authorities in the provincial Norths remains limited to Aboriginal self-government initiatives and Band-Aid-type solutions to what are deeply entrenched problems.”

for Canada’s medium and long-term prosperity. And, in the latter case, the federal government has an enormous jurisdictional role, not the least of which is over environmental regulation concerning resource development to pipeline construction.

That Canada does not have a federal plan for the provincial Norths is a huge public policy gap in this country. Canada has impressive and significant Arctic strategies and has done much to improve political, constitutional, and socio-economic conditions in the territorial North, although everyone involved with the territories knows that there is a great deal still to be done. The situation to the south of the territories is actually more dire, requiring urgent attention by local governments, provincial authorities, and the Government of Canada. Canada has laid the foundations for meaningful change in the territorial North; it has not yet diagnosed the problems and challenges facing the provincial Norths in Canada. This region is, as a consequence, the next major public policy frontier for Canadian governments, including the Government of Canada, the seven provinces with significant northern regions, and the Aboriginal governments that are assuming increasingly important roles in the governance and future of the provincial Norths in Canada.

Devolution to local authorities in the provincial Norths remains limited to Aboriginal self-government initiatives and Band Aid-type solutions to what are deeply entrenched problems. Each province has its own administrative and political arrangements for its northern territories, but with the notable exceptions of Quebec and Newfoundland and Labrador, these do not place substantial authority in the hands of regional residents. There is, therefore, no systematic empowerment of northerners and their government representatives, but instead a pattern of political marginalization inside the respective provinces. The various and minor attempts



GRAPHICSTOCK

in most provinces to manage northern regions through special government departments or agencies stop well short of providing meaningful autonomy for the provincial Norths.

The differences between the provincial Norths and the territorial North are almost entirely jurisdictional. The geography and economy of northern Saskatchewan is not markedly different from the adjacent part of the Northwest Territories. Northern British Columbia is closely connected – except in political authority – to the Yukon. When Canadians talk of the Arctic Council,

their thoughts immediately go to the Yukon, Northwest Territories, and Nunavut and leapfrog over the comparable communities, economies, and geographies of northern Saskatchewan and northern Ontario. The establishment of provincial boundaries, undertaken with no discussion with the small number of northern residents at the time and handled in a manner reminiscent of the establishment of colonial borders in Africa, created artificial barriers that have subsequently defined the political life in the region.

If the experience of territorial devolution is one of the most impressive political achievements of Canada over the past 30 years, the inability to address the aspirations and needs of the provincial Norths remains one of this country's greatest – and largely ignored – shortcomings. While Prime Ministers and cabinet ministers focus intently on the Arctic – generally and geographically incorrectly defined as being the territorial North – little national attention is given to the internal dynamics of the provincial Norths. The situation is not much different inside the various provinces, with Quebec standing apart as a major exception. Provincial governments are content to capitalize on the formidable resource potential of their northern regions, but they have not yet sought the means to bring about major changes in the way that northern affairs are managed and regional political aspirations are met.

The cynical view of the pattern of political marginalization is also the most compelling argument: that the provinces have come to rely on northern resource wealth to power provincial economies and to sustain provincial government spending. There is no desire to share the considerable wealth of the region, and the power derived from that income, with the numerically small, widely scattered, and transient non-Aboriginal people and substantial Aboriginal population of the North. Marginalization, therefore, serves provincial governments very well and helps sustain the provincial economies and provincial authorities. There is simply no imperative at present, nationally or provincially (again, save Quebec), to restructure political arrangements to better serve northern regions.

The irony is substantial and surprising. The territorial Norths have long been “favoured colonies,” at least in financial terms,

and are now among the most creative and regionally empowered jurisdictions in the country. While devolution continues and while a great deal of work remains to be done in the northern territories, the reality is that these jurisdictions are on a very favourable path. In economic terms, the Yukon, the Northwest Territories, and Nunavut continue to experience difficulties; were it not for

very substantial transfers from the Government of Canada, the territories would be in extreme distress. They would be, in fact, like much of the provincial North in Canada, particularly those parts away from major regional centres like Prince George, BC, Prince Rupert, BC, Thompson, Manitoba, and Fort McMurray, Alberta. The economies of the provincial North generate enormous wealth for the country, with expansion currently underway. Economic contributions, however, are not connected to

political autonomy and the ability to determine their own future.

Given that the fundamental barrier to comprehensive attention to the challenges of the provincial North lies in the constitutional realities of Canadian federalism, it is imperative to understand the provincial interest in greater federal engagement in the region and the federal interest in investing time and resources in the uncertain prospects of improving conditions in the region. There are several responses.

First, it is a national challenge – one requiring broad government support – to address the problems and capitalize on the opportunities of the region. Second, the costs of completing Confederation, of bringing the socio-economic conditions closer to national standards and providing a reasonable equality of opportunity across the North, cannot be met by the provinces acting alone. Furthermore, the Government of Canada has ongoing responsibilities for Aboriginal peoples and communities and will inevitably have to work in concert with provincial governments to improve conditions. As well, the federal government's clear desire to promote resource development as a key driver for the Canadian economy and its jurisdictional role in environmental stewardship ensures that Ottawa will retain an active interest in ensuring Aboriginal and northern support for the provincial North.

*...the inability to address
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The Way Forward

Canadian federalism is an effective system of governance, but has its unique challenges and shortcomings. Over the generations, the federal, provincial, and territorial governments have compromised, adapted, and innovated on a wide variety of files, from health care and post-secondary education to the more recent emphasis on Aboriginal self-government and treaty processes. Developing a coordinated federal-provincial response to northern realities is in no way outside the realm of possibilities.

The inequities experienced by people in the provincial Norths fit into the same category as earlier national problems: substantial national challenges that cannot be addressed by the federal or provincial governments alone and that, if not addressed, will either fall below the standards of Canadian social justice or limit the development of Canada as a nation.

Drawing attention to the unique challenges of the provincial Norths does not mean that the work in the northern territories is complete. The territorial political transformation has to continue, for a great deal of hard and creative work is still required. At the same time, however, it is imperative that Canadians awaken to the missed opportunities and ignored responsibilities in the provincial North. The Government of Canada, working collaboratively with the seven provincial governments that have substantial northern regions, should devote much more energy and administrative focus to the provincial North, a land that holds Canada's economic future in its hands but that lacks the political levers and regional control necessary to ensure that northerners benefit appropriately from the

development of their lands and resources. The provincial North remains largely "forgotten" in a political and administrative sense, creating a formidable challenge for the country as a whole.

To date, there is no national sense of urgency associated with empowering the region, and uneven political development across the country. Given the rapid development of northern resources and the serious needs of Aboriginal and remote communities, it is time that Canadians realize that the country remains substantially unfinished and that the most pressing challenges are to be found in an area that few Canadians give so much as a thought, the provincial Norths. ❖

*Raised in the Yukon, **Ken Coates** is an historian and public policy specialist who has worked extensively on Aboriginal and northern affairs, in Canada and internationally. He is currently the co-Director of the Macdonald-Laurier Institute's project on Aboriginal People and Natural Resources, Director of the International Centre for Northern Governance and Development and Canada Research Chair in Regional Innovation at the University of Saskatchewan.*

Greg Poelzer is the Founder and Executive Chair of the International Centre for Northern Governance and Development and Associate Professor of Political Studies at the University of Saskatchewan. He is highly regarded specialist on northern and Aboriginal governance, with extensive international experience in Russia and Scandinavia.

Greg Poelzer and Ken Coates are completing a new book, Treaty Peoples: Finding Common Ground with Aboriginal People.

Serious Senate reform is our only option

MLI Managing Director Brian Lee Crowley comments on the April 25 Supreme Court ruling on the federal government's Senate reform reference. Crowley, who was involved in negotiating the Meech Lake and Charlottetown accords, acknowledges that Canadians are rightly reluctant to open constitutional negotiations. But, he points out, "unless we are simply to throw up our hands and admit that our nation lacks the will and the means to fix fundamental national challenges like this, serious constitutional reform is our only option". Crowley contends it is possible to limit constitutional changes to the question of Senate reform, and foil provincial demands for broader negotiations.

Brian Lee Crowley

At least we know where we stand. Friday's Supreme Court of Canada ruling on Senate reform has essentially ruled out the Conservative government's efforts to reform the Senate without resorting to constitutional reform.

The government's motivation for its plan was reasonable: Canadians dislike the Senate status quo but there is no appetite in Canada for constitutional discussions. As someone who helped negotiate both Meech and Charlottetown I heartily endorse that view. Few of us who were part of those processes want to do that again and the outcomes damaged rather than strengthened Canada.

Yet the Supreme Court's decision does nothing to change the fact that the Senate as currently constituted is unacceptable to Canadians. It is a 19th century relic whose appointed nature, lifetime (until age 75) tenure and lack of democratic accountability are unworthy of a powerful legislative body in 2014.

Yet the Supreme Court's decision leaves us with only three choices: the status quo, reform or abolition, with the latter two unambiguously requiring constitutional amendment and even unanimity in the case of abolition.

Despite much whistling past the graveyard, the Liberal claim — that they have shown that the status quo can be reformed simply by distancing themselves from their own senators — is nonsense. Any serious legislative body has partisan features and attempting to exclude them is anti-democratic. Party is essential to politics and we will see that every time the Liberal Party wants its "formerly Liberal" senators to vote a certain way.

Improved appointment processes will not resuscitate this

dead parrot either. Appointment in 2014 is wrong in principle.

As for Thomas Mulcair and the NDP's preference of abolition, the Supreme Court now says that unanimity is required. So the premier of PEI (or New Brunswick or Manitoba) could veto it even if abolition had the support of three quarters of the population and the other nine provinces.

So unless we are simply to throw up our hands and admit that our nation lacks the will and the means to fix fundamental national challenges like this, serious constitutional reform is our only option.

Before you call the Mafia to take out a contract on me, consider for a moment what it is we all detest about constitutional discussions. It is their open ended nature with every province, territory, First Nation and interest group bringing its own issues to the table. By the time you buy enough people off to meet the "7 provinces representing 50 per cent of the population" threshold for basic constitutional amendment, the reform looks like a Christmas tree the cat just knocked over.

As I argued a few months ago in a big paper on Senate reform, it doesn't have to be this way. We need some means to focus attention in a single issue, debate it on its merits and make a decision about what is good for the country on that issue alone.

We can do that. What is required is a federal government with the chutzpah to put a reasoned Senate reform plan to all Canadians in a referendum. A sensible plan would, I believe,

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National inquiry not the best response to RCMP report on Aboriginal women

In a recent Globe and Mail op-ed, MLI Senior Fellow Benjamin Perrin suggested that calls for a national inquiry would create “the quickest route to the slowest response” to a recent RCMP report on missing and murdered Aboriginal women. Instead Perrin calls for a renewed focus on prevention efforts from local police forces and the federal, provincial and territorial governments.

Benjamin Perrin

Imagine having a baby, knowing that the infant is seven times more likely to be the victim of a violent murder than the average Canadian newborn. That’s been the tragic reality of aboriginal girls in our country, as painted by Statistics Canada over the years.

Last week, the RCMP revealed that the situation is far worse than feared – by the force’s count, the number of police-reported missing and murdered aboriginal women is double what was previously thought. This comprehensive RCMP study surveyed police forces across Canada. It found that between 1980 and 2012, there were 1,181 missing and murdered aboriginal females (164 are missing, 1,017 were homicide victims); 225 of these cases remain unsolved.

To put these figures in context, while aboriginal women represent just 4.3 per cent of the female population in Canada, they account for 11.3 per cent of the total number of missing women. Even more alarming, the RCMP found that 16 per cent of all homicides in Canada are perpetrated against aboriginal females – a “significant overrepresentation.” While total homicide rates have been declining in recent decades, the trend for aboriginal women is not so good.

How should we respond to this crisis?

No doubt, the RCMP’s report will spur renewed calls by some for a national inquiry. Unfortunately, an inquiry would be the quickest route to the slowest response. The tens of millions of

dollars it would cost would go to lawyers (I say this as a member of the bar) and it would be very odd if the findings departed markedly from those reached recently by B.C.’s Missing Women Commission of Inquiry or the numerous studies at the national and provincial/territorial levels that have already been completed. In my experience researching the related issue of human trafficking and prostitution, affected aboriginal communities are more interested in action than more talk.

So what should be done?

First, the RCMP wants to solve these cases and refocus its prevention efforts – we need to hear the same commitment from local police across Canada, especially in areas that the data show are most deeply affected. These are real crimes, and they are widespread. Our police forces need to reallocate resources to meet this urgent need and, if required, seek further funding from relevant governments. We also need to hear back regularly from the RCMP on progress and challenges to solving these cases and stemming the tide.

Second, a national action plan that involves the federal government, provincial and territorial governments, police, non-governmental organizations on the ground and aboriginal communities is needed to enhance and better co-ordinate prevention efforts that focus on potential victims, as well as potential offenders.

While some meaningful action has been taken in recent

years by the federal government and some provincial governments (notably Manitoba), little of it gets reported in the media. Prime Minister Stephen Harper has committed to assisting victims of crime – the plight of aboriginal women and girls calls out for greater action.

Third, we need to reform the Criminal Code with this new data in hand. The RCMP highlighted the particular vulnerability of aboriginal women and girls involved in prostitution. A legislative response to the Supreme Court of Canada's decision in the Bedford case, which declared several prostitution-related offences unconstitutional, is expected soon.

Legalized/decriminalized prostitution is opposed by many aboriginal women's groups and would only make things worse. Aboriginal women need support to exit prostitution and should not be criminalized – instead, johns, pimps and traffickers need to be punished. As an aboriginal leader once pointed out to me, there's no word for "prostitution" in her traditional language – it's not the "oldest profession" but was brought here by European settlers.

The federal government should also amend the so-called Gladue principle, whereby all aboriginal offenders are given special treatment at sentencing. While the concept is directed at the serious problem of overrepresentation of aboriginal offenders in jail, it ignores the fact that the victims of these offenders are often aboriginal, too.

Judges need to be made aware of this RCMP data, particularly the fact that fully 90 per cent of missing and murdered aboriginal women knew their perpetrator (e.g., spouses, family members and acquaintances) and that most of these offenders had criminal records involving prior acts of violence against their victims. Aboriginal women may well be paying the price for leniency with violent aboriginal offenders – in some cases, with their lives. The Gladue principle should be disallowed in all cases involving crimes of a violent nature, particularly for repeat offenders. Addressing the aboriginal incarceration issue needs a different response for these individuals.

The RCMP admits to being "surprised" by the findings of this new study, but has promised further action. That's a good first start. But the number of missing and murdered aboriginal women and girls is an appalling national disgrace. It requires an urgent response because it really is a last chance for First Nations women and girls. ✱

Benjamin Perrin is a law professor at the University of British Columbia, senior fellow at the Macdonald-Laurier Institute for Public Policy and chair of the Justice for Victims of Crime Working Group. He is former special adviser for legal affairs and policy in the Prime Minister's Office. The commentary above was published in The Globe and Mail, May 21, 2014.

Serious Senate Reform (Crowley)

Continued from page 20

achieve a large national endorsement. Ottawa could then challenge the provinces to defy their own voters and turn down the reform. The provinces would huff and puff but I think they would fall into line. As long as none of the reforms required unanimity no province would have a veto.

That last qualification is a vital one. As we just saw with abolition, the logic of unanimity confers huge bargaining power on holdout provinces because they can bring the whole process crashing down. The logic of the so-called 7/50 rule is that we can have up to three holdouts and it doesn't matter. As soon as you have your 7/50, the bargaining power of the naysayers falls more or less to zero. I believe that we would find the seven provinces we need if faced with a large national consensus for the federal plan endorsed in a referendum. The popular backing ought to be

sufficient for Ottawa to see off attempts by the provinces to get other issues on the negotiating table, because they can say they are pursuing the mandate they have been given by the people of Canada.

Is it risky? Of course. Few things worth having aren't. But the status quo has its risks too, including playing into a deepening national disillusionment with all things political. Great countries need sound institutions to keep leaders and voters connected. Canadians find the principles on which the current Senate is based repugnant and anachronistic. The Supreme Court has clarified what the tools are we have to work with. Time to roll up our sleeves and get the job done. ✱

Brian Lee Crowley is Managing Director of the Macdonald-Laurier Institute. The commentary above was published in Postmedia papers following release of the Supreme Court ruling.



In Search of a National Digital Content Policy

The digital media/digital content sector sits at the interface of economic globalization, technological innovation and, most fickle of all, popular culture. Although Canadian politicians speak earnestly about digital media, digital content and the imperatives of the new, Internet-based economy, figuring how to develop a digital content policy -- to support the production of commercial material to be transmitted over the Internet -- remains elusive. The author notes that a great many countries have much more advanced digital content policy frameworks. Fortunately, this means there are plenty of models to study as policy-makers in Ottawa turn their minds to crafting a strategy for Canada.

Carin Holroyd

Digital media, from IT infrastructure to digital content production, is clearly going to figure prominently in the 21st century. By most metrics, Canada is underperforming significantly and lacks a comprehensive policy framework for the promotion and sustainability of this key sector. Canada needs a combination of accelerated investment in digital capacity, enhanced training and business development, and greater commitment to digital content.

When he was federal Minister of Industry, Tony Clement made a splash at the 2010 Canada 3.0 national digital media conference held in Stratford, Ontario. He announced the Government's plans to develop a Digital Economy Strategy, to be built off of an extensive national consultation. The consultations took place – there was genuine industry interest in the effort – but no digital economy strategy emerged. Indeed, the government continued to place its emphasis on the standard industrial and infrastructure elements, but with little attention given to the fastest growing parts

of the digital economy, those relating to the production, distribution and commercialization of digital content.

The federal Conservatives did not lose the digital thread altogether. The Conservative Party platform in 2011 indicated that the Government of Canada would be announcing a Digital Economy Strategy, focusing on improvement of infrastructure, a modernization of Canadian copyright law, enhanced educational and training programs, and college-business collaboration. Gary Goodyear, Minister of State for Science and Technology summarized the government's plans by saying "the private sector must lead the way. The government is creating the right conditions for Canadian business to compete internationally, we are creating the right policies to help the ICT sector grow, and we are providing incentives for businesses to adopt and use technology." The federal government has made investments. What they have not done is provide an outline of a coherent digital media strategy for the country.

In this context, the release by the Government of Canada of *Digital Canada 150* in April 2014 represented a significant step forward. For a fast-changing part of the economy, *Digital Canada 150* was surprisingly cautious. The Government of Canada pledged to connect more Canadians to broadband, particularly in rural and remote areas. They offered plans to improve Internet security, digitize more government services, encourage greater online Canadian content and promote e-commerce.

Michael Geist, a leading Canadian commentator on digital matters, highlighted three contributions of the policy document: the demonstration of government interest in digital technologies; a compendium of the not inconsiderable government actions to date; and some general directions on future policy priorities, from rural broadband to open data and cyber-bullying. As Geist summarized:

“Most disappointingly, Digital Canada 150 lacks a big picture goal or target that might have made the whole greater than the sum of its parts. There was no shortage of possibilities such as a national digital library to revolutionize access in schools and communities, a rethinking of Canadian surveillance policy so that mounting fears of widespread surveillance of individuals might be addressed, structural separation of Internet providers or a plan to join forces with the private sector to bring affordable access and computing equipment into every home in Canada.

“These were the types of initiatives that might have captured the public’s imagination and put an identifiable face on a broader strategy document. Instead, four years of waiting has yielded a modest vision of Canada’s digital future that frequently focuses more on what the government has done than on where it wants to go. Moore deserves credit for bringing the strategy to the finish line but, given the remarkable possibilities created by the Internet and new technologies, many Canadians were likely hoping for more.” (Michael Geist, “*Digital Canada 150: The Digital Strategy Without a Strategy*,” 5 April 2014.)

The federal approach is not that surprising. Although Canadian politicians speak earnestly about digital media, digital content and the imperatives of the new, Internet-based economy, figuring how to develop a digital content policy – to support the production of commercial material to be transmitted over the Internet – remains elusive. Many countries and the European Union have aggressive digital media plans. Canada does not and

Canada’s Information and Communications Technology standing continues to languish. Given the success of several key digital media firms – BlackBerry, Open Text, Desire2Learn, Christie Digital – and the seldom noted reality that the country ranks third in the world in video game production, it remains a mystery why a sector of such current and future prominence attracts so little

“The federal government has made investments. What they have not done is provide an outline of a coherent digital media strategy for the country”

political and government attention.

Digital content has been hard to accommodate within the government innovation policies and investments. The digital media/digital content sector does not really follow standard manufacturing structures, which emphasize industrial processes, large-scale operations and the production of physical products. Vast sums have been made on the basis of a relatively small amount of simple code (Facebook), creative algorithms (Google), attractive and efficient designs for communications systems (Apple and BlackBerry), a refinement of Internet-based telephony (Skype) or the application of digital storage technologies to a familiar consumer activity (YouTube). Smartphone apps have made programmers into billionaires, reproducing some of the frenzy of the dot.com boom of the 1990s.

Within the digital content sector, most firms are very small. Canada’s digital start-ups have a distressing pattern of selling

¹ Daniel Tencer, “The 15 Countries with the highest broadband Internet penetration rate in the world”, *The Huffington Post Canada*, 08/02/2012.

² <http://www.netindex.com/download/allcountries/>

³ Material drawn from an interview with Luca Martinelli, Principal Administrator and Policy Officer, European Commission, Information Society and Media Directorate General, Digital Content and Cognitive Systems Directorate, (name will change to DG Connect), June 5, 2012, Luxembourg.

their innovations to the large American firms. Some of the most commercially viable fields are in less dramatic areas like educational content, premium content for libraries, high-end training materials and government services. The digital content sector does not aggregate easily. Governments understand the lobbying efforts by the forest industry, car manufacturers or the agricultural sector. Digital content is anarchistic in comparison, with little coordination between the various sub-sectors in Canada before the creation of the Canadian Digital Media Network in 2009. There are some large international players: Corus Entertainment has a substantial digital global presence, for example, and the popular Kobo eReader was launched in association with Chapters/Indigo before being sold to the Japanese-owned Ratuken in 2012.

The digital content sector is also challenging to support because of the often short-life span of innovations. Many of the pioneering firms in the digital content field have disappeared. Over the past decade, the rapid emergence of new applications and the shift from desktop computers to smart phones and tablets changed the industry. Innovations abound and continue to emerge, including social media, mobile Internet, digital cameras, ubiquitous computing, digital animation, Internet Protocol telephony, multi-player games, virtual reality, immersion chambers, electronic auctions, digital projection, digital advertising, cloud computing, multi-player games, content management and search systems, mass digitization, and many other developments. Put simply, the nature and parameters of the youth-focused,

fast-changing digital content sector are not well suited to the metrics, expectations and structures of national innovation strategies and government policies.

The content industry is also seen in Canada as an offshoot of the cultural sector or of heritage, intended to serve as a means of promoting national history, cultural themes and/or artistic

expression. Just as governments routinely underestimate the economic importance of theatre, music and museums, they often continue that pattern by putting digital content into the same space. One of the key reasons that commercial policy movement in Canada has been so slow is that the primary federal responsibility for digital content remains in Canadian Heritage. Other countries – Taiwan, South Korea, Malaysia, Singapore, Japan, Estonia, Sweden, France and some others – are very active in digital media and have taken a broader perspective on the economic reality potential of the digital content sector.

A brief overview of national and regional priorities, focusing on East Asia and Europe, provides useful insights into gaps in Canadian public policy in digital media.

Building on the success of digital manufacturing, and Japan's early domination of the video game market, South Korea, Japan, China and Taiwan made major investments in wireless and wired Internet services but quickly broadened this out to support training, business development, international marketing and product enhancement in digital content. Private and public partnerships have provided the region with world-leading Internet connectivity, both through fibre optic cable and wireless services. Internet speeds have been among the fastest in the world and the once-high charges for Internet services fell dramatically.

Taiwan's government referred to its approach to the sector as "Bandwidth First, Content Later" and pledged to get broadband to every household as quickly as possible. The Korean government launched a \$10 billion broadband program in 2003 with the goal of achieving universal coverage by 2005. As of 2012, South Korea not only has the highest broadband Internet penetration in the world at 97.5 percent¹, but it also has the lowest prices and among the highest speeds² Hong Kong, Japan, Singapore and South

One of the key reasons that commercial policy movement in Canada has been so slow is that the primary federal responsibility for digital content remains in Canadian Heritage."

⁴ Ibid

⁵ European Commission press release, "Digital Agenda: Turning Government Data into Gold" December 12, 2011 - <http://europa.eu/rapid/pressReleases-Action.do?reference=IP/11/1524&format=HTML&aged=0&language=EN&guiLanguage=en>

⁶ Interview with Ellen Pettersen, Digidel, Stockholm, Sweden, June 12, 2012.

⁷ Interview with Anna Hrapovitskaja, ICT Demo Centre, Tallin Estonia, June 18, 2012.

Korea are all among the top six countries in the world in terms of download speeds. Canada's Internet infrastructure, particularly, in northern and rural areas, is seriously deficient, slow and very expensive by global standards.

A central agency to coordinate the development of the digital content sector has been a successful approach for some countries. Taiwan, for example, established the Institute for Information Industry (Triple I) to encourage university-business collaboration, talent cultivation and market promotion and launches very aggressive e-economy strategies. Korea created a similar body in 2009 – the Korea Creative Content Agency combined five existing organizations into a single, influential entity charged with expanding the national presence in digital content.

The creation of flagship facilities – high profile digital content showcases – is a way to draw attention to the digital media field and highlight its increasing economic importance. In South Korea, the development of Songdo inside the Incheon Free Economic Zone is designed as a demonstration project for all manner of digital content and connectivity initiatives. The U-City (the “U” symbolizing ubiquitous computing) model illustrates how work, personal life, government and recreation can be bundled through digital technology, providing residents and visitors alike with a window on the digital future. Also in Korea, Seoul's Digital Media City, planned and funded by the Seoul City government, represents perhaps the largest digital content investment in Asia, if not the world, promising a complex of some 800 companies and over 60,000 employees, hoping to move beyond a demonstration centre to become an Asian hub for digital content creation and commercialization.

Hong Kong has followed suit, investing in a \$2 billion CyberPort, a collaborative centre that brings together training, research and commercialization, focusing on digital content. Singapore built an impressive Interactive Digital Media Centre, with specialized facilities for simulations and 3D visualization. China, for its part, has committed to the development of digital animation, opening a string of animation parks across the country, each focused on the development of digital content businesses.

Canada lacks a comparable major investment in a flagship digital media centre, one that provides a new model of training, applied research and commercialization and that provides an entry point for Canadian content providers to the global digital economy. Canada's commitments to date – the most extensive being investments in the digital media campuses of the University of Waterloo in Stratford, the Ontario College of Art and Design University in Toronto and the Great Northern Way digital complex in Vancouver – pale in comparison to the scale of the investments in other countries.

The European Union's Europeana project is an ambitious digital content project, designed to give digitized access to Europe's entire cultural heritage by 2025. By 2012, Europeana had 23 million digitized items and it aims to have 30 million by 2015³. The Europeana Foundation works with a network

of museums, archives and libraries, assisted by Europe's leading universities. Europeana wants to “facilitate knowledge transfer, innovation and advocacy in the cultural heritage sector, distribute their heritage to users wherever they are, whenever they want it, engage users in new ways of participating in their cultural heritage”.⁴ The European Commission is now deliberating on ways to encourage the reuse of the material it has gathered, including for business purposes. One of its attempts to do so is through what it calls Hacker Funds. Young people are invited to develop applications for the use of digital cultural materials. There is some money attached to the award but the main prize is public recognition through the annual Digital Assembly in Brussels each June.

Most of Canada's historical and contemporary material is available only in traditional formats. This country needs to launch a catch-up project, designed to digitize Canadian heritage materials (books, magazines, archival materials, government reports, films, music, paintings, television programs, etc.). Tom Jenkins, Executive Chairman of the Board and Chief Strategy Officer for Open Text, and Dr. Ian Wilson, former Librarian and Archivist of Canada, led a promising initiative to digitize Canadian content. Even they failed to convince the Government of Canada to make a financial commitment to the area.

Opening up government data to the public in hopes that

“The EU estimates that the benefits of releasing public sector information and allowing it to be reused could bring in as much as €40 billion annually to the European economy.”

many people, from researchers and academics to creators of smart phone applications, will utilize the information that has been under discussion in Canada. In December 2011, the EU launched its Open Data Strategy for Europe, with the goal of building a digital content society founded on the potential commercial value of government/public information. The EU estimates that the benefits of releasing public sector information and allowing it to be reused could bring in as much as €40 billion annually to the European economy.⁵

Recognition of the difficulties faced in the 21st century by those who do not know how to use the Internet or for other reasons do not have access to it has grown in Canada as more and more services are offered online. A number of European countries (e.g., the United Kingdom, Sweden and Finland) have shown a strong commitment to accessibility, including some leading-edge efforts to ensure that disadvantaged groups (the elderly, disabled and the poor) have regular and reliable access to digital content. Get Online Week, for example, takes place across Europe every March. Sweden's Digidel 2013, an Internet participation campaign launched in 2011, is probably the best example of an Internet accessibility effort.⁶ Its goal is to give at least half a million Swedes currently not using the Internet the ability to do so.

While a great number of Canadian government services are available online, there is more that can be done. Estonia, with one of the most impressive e-government systems in the world, is a good place to look for ideas.⁷ Estonian tax forms are automatically prepopulated so that it takes only a few minutes to complete taxes; refund cheques are mailed out within a week. E-voting has been in place since 2005. Citizens can cast their votes (and change their votes) within a fixed pre-election period. A mobile ID card which ensures access to every secure e-service in Estonia was launched in 2002. The card is used for health insurance, banking, public transportation, digital signatures, e-voting, e-prescriptions and more. All of Estonia's government and private sector databases are linked (connected by what Estonia refers to as an X Road) and connect across platforms.

The digital media/digital content sector sits at the interface

of economic globalization, technological innovation and, most fickle of all, popular culture. Content is becoming increasingly important, as the technological improvements bring billions of potential consumers within easy reach of content producers from around the world. Canada has made important strides in the digital economy and has some prominent examples of national

success and international competitiveness. However, Canadian industry is not fully informed about the international development of digital media and digital content. The provincial and federal governments, as a result, are not aligning their policies, support and sense of urgency with global competitors.

Compared to other leading digital nations, Canada is not effective at converting early stage digital innovations into viable companies. Equally important, Canada has not been able to

convert its globally competitive cultural sector into the foundation for a strong and expansive digital content industry. In global terms, Canada has significant strengths in the culture and content fields but it is not bolstered by government policy and investment, corporate engagement and international commercial connections. There are many more initiatives and policies that could be undertaken to better support the development of a digital content sector in Canada, with a great need to create the legal and intellectual property rights environment necessary to support the commercialization of digital content.

Digital content, digital government services, and digital initiatives targeted at rural and remote regions hold particular potential for Canadian businesses. Canada is internationally respected with regard to the rule of law, financial security and government regulation. There is great potential to build world-leading positions in intellectual property rights, content management and e-government initiatives. In the world of digital content, much Canadian work remains to be done, but there is an e-foundation upon which to build. ✱

Dr. Carin Holroyd is Associate Professor, Department of Political Studies, University of Saskatchewan.

“Compared to other leading digital nations, Canada is not effective at converting early stage digital innovations into viable companies”

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Regulating spam

Will July 2014 mark the dawn of a new era in Canada's fight against spam?

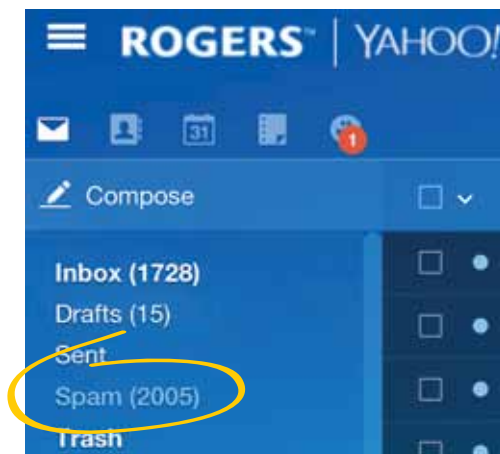
While Canada's anti-spam legislation was passed into law in December 2010, the majority of the provisions will come into force on July 1, 2014. Lawyer Meredith MacDonald examines the rationale, the challenges and the implications of the anti-spam legislation.

Meredith MacDonald

Spam is the curse of the Internet for all those that have email addresses. For most users of the Internet with email addresses, spam is broadly defined as unwanted or unsolicited email. To many, these emails are more of an annoyance than anything else. However, the problems associated with spam run much deeper than simply the nuisance factor; spam can present very serious threats to the viability of the Internet as a tool for communication and commercial transactions.¹

The deregulated nature and open concept of the Internet has facilitated the malicious activities of spammers.² Threats posed by spam include the spread of harmful viruses, malicious software, the use of spam for fraud, phishing, address harvesting, as well as a host of other harmful activities. These threats have lead to a decrease in the efficiency and trustworthiness of the Internet.³

As a result, governments around the world have struggled with how to regulate the "free Internet" to deal with the most obvious and egregious abusers of the system. Canada is no exception. There



are a great many challenges faced by policy makers as they seek to deal with those spammers whose tactics threaten the very essence of one of the most remarkable communication inventions of the past century.

According to a government of Canada task force appointed to study the issue, spam accounted for up to 80 percent of global email traffic at the end of 2005, which was up 70 percent from what it was in 2000.⁴

In 2004, an OECD task force studying the problem developed an "Anti-Spam Toolkit".⁵ The Toolkit recommended a number of measures which can be used by governments to address the issue of spam, many of which have

¹ Report of the Task Force on Spam, *Stopping Spam, Creating a Stronger, Safer Internet*, May 2005 at p. 1. ("Canada's Task Force on Spam")

² Organization for Economic Co-operation and Development, Task Force on Spam, *Report of the OECD Task Force on Spam: Anti-Spam Toolkit of Recommended Policies and Measures*, April 19, 2006 at p. 6. (the "OECD Toolkit")

³ OECD Toolkit at p.6.

since been adopted in Canada's anti-spam legislation.

Canada's anti-spam legislation was first introduced in April of 2009 and passed into law in December 2010.⁶ The majority of the provisions will come into force on July 1, 2014. Provisions relating to unsolicited installation of computer programs and software will come into force on January 15, 2015 and the sections relating to the private right of action remedy will come into force on July 1, 2017.

The Act's strictest and most comprehensive provisions include restrictions on sending commercial electronic messages ("CEMs") without consent, the installation of computer programs without consent, the alteration of transmission data, false or misleading representations online, collection of personal information and address harvesting. The Act also imposes hefty fines for non-compliance including administrative penalties of up to \$1 million for individuals and \$10 million for businesses and a civil private right of action which one day could arguably lead to class action law suits.

One of the challenges faced by policy advisors and legislators was the issue of whether consent by recipients to receive CEMs should be based on an "opt-in" or "opt-out" approach. Canada has sided with the "opt-in" approach whereas the United States, in its CAN SPAM legislation⁷ has gone with an "opt-out" approach.

There has also been debate as to whether consent to send CEMs should be express, inferred/implicit or assumed for purposes of legislative restriction. Each form of consent has its pros and cons, the difference in most cases being whether the sender or

recipient bears the burden and cost.⁸

Canada has decided to base its regulatory regime on express consent. Express consent provides the recipient with more control over their personal information and the messages they receive.⁹ It can also result in a higher response rate for legitimate business activity as messages coming from a known sender are more likely to be read by the recipient.¹⁰ The disadvantages of requiring express consent is the difficulty and cost imposed upon the sender, which in many cases are businesses conducting legitimate business activities through the use of CEMs.¹¹

Under the Act, express consent will be required in order to send a CEM unless the sender can prove that it has the implied consent of the recipient or that it fits under one of the many exemptions set out in the Act and regulations.¹² This consent require-

ment applies to sending CEMs via email, text message or to a social networking account. In order to obtain express consent the message must contain the name and contact information of the sender, the purpose of the communication and an unsubscribe mechanism.¹³ Consent can be implied in certain limited circumstances including, for example, where the sender and recipient have an existing business or non-business relationship.¹⁴

In addition to implied consent, there are exceptions to the consent requirement where, for example, the CEM is a quote, provides information about warranties, recalls or safety

One of the challenges faced by policy advisors and legislators was the issue of whether consent by recipients to receive CEMs should be based on an "opt-in" or "opt-out" approach. Canada has sided with the "opt-in" approach...

⁴ Canada's Task Force on Spam at p.1.

⁵ OECD Toolkit at p. 7.

⁶ The official name of the legislation is: *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*

⁷ CAN-SPAM Act (*Controlling the Assault of Non-Solicited Pornography and Marketing Act*), Pub. L. No. 108-187, §1, 117 Stat. 2699 (Dec. 16, 2003), codified at 15 U.S.C. §7701 et seq., 18 U.S.C. §1037

⁸ OECD Toolkit at p.28.

⁹ OECD Toolkit at p.28.

¹⁰ OECD Toolkit at p.28.

¹¹ OECD Toolkit at p.28.

¹² The Act at section 6(1).

¹³ The Act at section 6(2).

¹⁴ The Act at section 10(9).

¹⁵ The Act at section 6(6).

of a product and where the message is providing information about an ongoing purchase, subscription, membership or accounts.¹⁵

Finally, there are more general exemptions to the prohibitions surrounding CEMs where, for example, the sender and recipient have a family or personal relationship, the message is sent between employees in an organization, the message is sent in response to a request, the message is sent to enforce a legal right, the message is intended to be received in a foreign jurisdiction, and where the message is sent by a registered charity for the purposes of raising funds or by a political organization for the purpose of seeking political contributions.¹⁶

Many of these exemptions were not in the initial draft of the legislation and were only added after a strong lobby by industry stakeholders regarding the potential deleterious effects the legislation could have on legitimate commercial activity. The government addressed a number of these concerns in the final draft of the regulations.

Notwithstanding these clarifications, some stakeholders, such as the Canadian Chamber of Commerce, remain concerned in particular with the financial burden placed on businesses.¹⁷

Businesses will be required to maintain some form of database to track customer opt-out information and initially will have to sort through existing customer databases to determine which of their customers will require express consent. For small- to medium-sized businesses this, arguably, could be a significant expense.

Another concern voiced by many surrounds the broad application of the Act and specifically the definition of “commercial activity”. The Act defines commercial activity as any transaction, act or conduct that is of a commercial character, whether or not carried out with the expectation of profit.¹⁸ In contrast, other jurisdictions have chosen to have a more limited scope of the application of their anti-spam legislation.¹⁹

Notwithstanding these concerns, others have argued that, although this legislation will require businesses to make certain changes, similar legislation has been success-

fully implemented in other jurisdictions without dramatic consequences on businesses.²⁰ According to University of Ottawa professor Michael Geist, a digital privacy expert, the Act is a long overdue “win” for consumers as it will encourage a change in how businesses view and approach the use of consumer personal information.²¹ Although the Act will not result in the complete elimination of spam, it will assist the regulators in responding to the worst offenders.

As electronic commerce is not about to slow down some form of regulatory action was necessary to ensure that the Internet is a safe and efficient platform upon which to conduct business. The government’s objective is that the Act will reduce the threats associated with spam and enhance the trust in and the efficiency of the Internet as a tool for legitimate commercial activity. It remains to be seen whether the legislation will be successful in meeting that objective in the near term. ✱

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¹⁶ The Act at section 6(5) and the Electronic Commerce Protection Regulations at section 3.

¹⁷ Perrin Beatty, the Canadian Chamber of Commerce, *New Anti-spam Rules Remain a Concern for the Canadian Business Community*, December 4, 2013 online: <<http://www.chamber.ca/media/blog/131204-new-anti-spam-rules-remain-a-concern/>>

¹⁸ The Act at section 1(1).

¹⁹ United States’ CAN-SPAM Act covers commercial emails the primary purpose of which is the commercial advertisement or promotion of a commercial product. The European Union’s EU Electronic Communications Privacy Directive applies to messages sent “for the purposes of direct marketing”. Australia’s Spam Act lists the types of messages included in the definition of commercial electronic messages.

²⁰ Michael Geist, *Government Finalizes Anti-Spam Legislation After Years of Delay*, December 4, 2013 online: <<http://www.michaelgeist.com/content/view/7020/125/>>.

²¹ Michael Geist, *Government Finalizes Anti-Spam Legislation After Years of Delay*, December 4, 2013 online: <<http://www.michaelgeist.com/content/view/7020/125/>>.

The Natural Resource Sector

Economic Opportunities, Policy Challenges

Macdonald-Laurier Institute Managing Director Brian Lee Crowley highlights the importance of Canada's natural resource sector – and creating the conditions in which it can thrive. This article is based on a talk Crowley delivered to Le Cercle de la finance internationale in Montréal in May.

Brian Lee Crowley

Introduction: Canada's Greatest Endowment

A lot of people will tell you that Canada is a lucky country. Why? Because of its fantastic endowment of natural resources, including water and agricultural land as well as minerals, oil, and gas.

But while our natural resource endowment is indeed a wonderful benefit to Canada and Quebec, the real reason we are lucky, and the reason why the world beats a path to our resources, is not chiefly due to the resources themselves. What makes that endowment almost uniquely valuable in the world is that it exists within another vastly more important endowment of rules, institutions, and behaviours.

Consider that many of the world's wealthiest societies, be it Switzerland or Japan or Singapore or Taiwan or Germany or many others I could name, have no natural resources to speak of.

On the other hand, economists often talk about the curse of natural resource wealth because many of the societies that are blessed with such wealth do not know how to control it. Like many a lottery winner they are ruined by their good fortune. Just think of Nigeria, Venezuela, Indonesia, Angola, Algeria, Russia, or Saudi Arabia and ask yourself if you would trade living where you are to live there. And by the way, the natural resource curse is not limited to the developing world. Louisiana has one of the best natural resource endowments in the United States, and it consistently ranks near the bottom of all the states on most measures of social and economic progress. On the other hand many of the wealthiest states in the union, such as Massachusetts

or Connecticut or Florida have no natural resources to speak of.

What makes the difference? It is all chiefly due to that endowment of institutions and behaviours I talked about. In Canada on the whole, with some exceptions I will mention, we have the full set of institutions and behaviours that as a matter of empirical and historical fact confer economic success.

I will tell you what I think it entails: the rule of law, independent judges and reasonably speedy and reliable resolution of disputes, the enforcement of contracts, the absence of corruption among government officials and the police, respect of private property, a moderate, predictable, and stable taxation and regulatory burden, a stable currency that keeps its value, responsible public finances, freedom to trade both domestically and internationally, a well-developed work ethic, and a refusal to resort to violence to resolve political disagreements. That is the greatest endowment that we have.

Now let's think about this idea of the nesting of a rich natural resource endowment inside this endowment of rules, institutions, and behaviours that I have just described. Companies can invest billions of dollars to unlock opportunities, such as the Alberta oil sands or Quebec's minerals, reasonably secure that they know the fiscal, regulatory, and contractual conditions they will face over a period of years sufficient to recoup their investment and make some money. They know they will not be extorted by megalomaniacal presidents or state-sanctioned gangs of thieves. They know their investment will not be nationalized overnight on a change of

regime. They know that they are not in competition with favoured state corporations that will take a share of their business with no compensation, or be given access to opportunities on more favourable conditions than foreign investors. They know they can sell their product wherever they can get the best price and they can repatriate their profits in real hard currency.

Contrast this with Venezuela, Russia, Iran, or Argentina.

This may all help you to understand why, while it costs about \$20 to extract a barrel of oil in Saudi Arabia and can cost as much as roughly \$80 to extract one from the oil sands, oil companies from around the world are vying for the opportunity to invest in and develop that resource here. Its institutional context makes it more valuable than the same barrel elsewhere.

The Power of Policy

Note that we don't have to compare Canada with Russia or Iran to see the power of getting the political, fiscal, legal, and regulatory framework right. We have lots of fruitful comparisons from Canada itself.

Consider that when the oil and gas industry was in its infancy in the west, it was centred in Saskatchewan, not Alberta. Moose Jaw was to be what Calgary eventually became. But then a government came to power in Saskatchewan that changed the institutional context, increased the tax and regulatory burden and preferred to see resources developed by state-run corporations. The result was a rapid exodus of the industry to Alberta, which was more welcoming.

Then, 60 years later the situation was reversed. The Alberta government decided it wanted to increase its share of oil and gas revenues and changed the regulatory and fiscal rules. Investment started to dry up and shift to Saskatchewan, now a jurisdiction committed to exactly the kind of stable, friendly policy environment that huge investments of capital with long pay back periods require. The Alberta premier of the day was affectionately known next door as the best economic development minister Saskatchewan ever had. Alberta was forced to backtrack, but the relationship with the provincial government remains cool.

Something very similar happened in the province of Quebec, with oil and gas and mining. On the oil and gas side I think it is fair to say that the reluctance of both governments and public opinion to embrace petroleum exploration and development has made the industry reluctant to invest here. That meant that by the time the government got around to understanding that its fiscal position, among other things, made it prohibitively expensive to forgo exploration, it could only attract relatively junior players

and even then only if the provincial government shouldered the lion's share of the risk. While in opposition the Liberals made clear they felt the risks were too high and that government shouldn't be a partner in the exploration around Anticosti. However now that they are in power if they cancel the agreements they only add to investor uncertainty. The decision they make will reverberate among the few investors still willing to envisage putting their money here.

Consider also that the only real commercially viable natural gas discovery made so far has essentially been stopped in its tracks: The Charest Liberals temporized by passing the hot potato to the *Bureau d'audiences publiques sur l'environnement* (BAPE) and an environmental review. The PQ was more aggressive and introduced *de facto* expropriation legislation (Bill 37) that died on the order paper when the election was called. This is exactly the opposite of the behaviour that unlocks investment in natural resources.

In mining, where Quebec has far more experience and an established track record, the government's revisions to the fiscal framework for mining were so ill received by the industry that Quebec tumbled from first place in the Fraser Institute's annual ranking of global mining jurisdictions from 2007/09 to 21st this year,¹ a stunning loss of competitiveness caused entirely by four attempts over the intervening years to revise la *Loi sur les mines* and two overhauls of the tax regime governing mining. And that loss of competitiveness is affecting investment levels. Last October, *l'Institut de la statistique du Québec* forecast a fall of 10 percent in mining investment in Quebec over the course of the year. That's the first decline in a decade. Newer data show that l'institut was too optimistic, with investment in fact declining by over a third, while exploration and development spending have fallen even more. Not to put too fine a point on it, this is a classic case of ill-advised government policy driven by an insatiable appetite for revenue and an inadequate understanding of the conditions that will unlock the kind of capital investment I have mentioned.

At a time when Quebec is being urged, including by the federal minister of finance, Joe Oliver,² to develop its natural resources, and Quebecers might therefore be asking themselves whether that is a road they want to take, it might be worthwhile to open a parenthesis here and refute some common misconcep-

¹ Accessible at <http://www.fraserinstitute.org/uploadedFiles/fraser-ca/Content/research-news/research/publications/mining-survey-2013.pdf>.

² Joël-Denis Bellavance, « *Québec doit exploiter pleinement ses ressources naturelles* », La Presse, 25 avril 2014.

tions³ about the natural resource economy and its desirability relative to, say, manufacturing. The natural resource economy is not low-value added. On the contrary, manufacturing is now fully globalised and it represents the part of the process from conception to final product where the least value added is found. In the natural resource industry we are not in competition with developing countries' wages, because it is the global value of these highly desirable commodities that drive the industry, not wages. Moreover, Canada is not only a major exporter of resources, but also a major importer, as people who work in Quebec's aluminum industry can tell you.

The natural resource sector is not highly cyclical. Manufacturing is much more cyclical in its effects on the economy than natural resources. Nor do natural resources contribute to regional disparities within Canada because they are widely distributed across the country although as I have explained that does not mean that all jurisdictions are equally successful in seeing them developed. Finally, contrary to the Dutch disease thesis, natural resources give little evidence of affecting our exchange rate, and the manufacturing industry in Canada specifically recognizes natural resource development as their biggest opportunity.⁴

Global Opportunities

We've talked a fair bit about institutions and capital in the context of natural resources. Now let's talk about opportunity in a bit more detail.

Of the seven billion people in the world, only about half of them live in cities. But by 2050, according to the UN, the world's population will have increased by 2.3 billion, whereas the population of the world's cities will have increased by 2.6 billion. All of the population increase over the next 40 years will take place in cities, and another 300 million people will move from rural areas to the cities.

According to Paul Romer, one of the world's leading economists, all this means that there is a serious shortage of cities in the world.⁵ He points out that much effort is spent trying to tear down the barriers to trade between countries on the grounds that this will increase the world's wealth by a few percentage points. But you pull more people out of poverty faster by simply moving

them from the country to the city. Look no further than this for the explanation of the explosive growth of cities throughout the world and especially in the developing world.

Moreover this rapid urbanisation is the chief explanation as to why these societies are able to grow so quickly compared to the west. We already have gone through the transition; they are on the way.

The effect of urbanisation on workers' incomes in the developing world is startling. Workers in cities earn a third more than their nonurban counterparts. Every time you add another million people to a city's population, you increase the wage level of everyone living there by 15 percent, so the growth is self-reinforcing.

According to the *National Post*, under the government's current plan China is to build 36 million affordable homes between 2012 and 2015, and even that may not be enough.⁶

That is the equivalent of building one house for every single Canadian over those three years.

As the *Post* notes, "All of these houses will require an awful lot of timber, concrete, copper wire, and other commodities".⁷ That is only a tiny slice of the opportunity for resource-exporting Canadian companies and their investors. China's oil consumption alone will rise from about 7 million barrels a day today to over 12 million.

But China won't be the only one bidding for our oil and other resources. China, like many other major consumers, is acutely aware that 80 percent of the world's oil supply is controlled by state corporations and comes from countries with various forms of

...by 2050, according to the UN, the world's population will have increased by 2.3 billion, whereas the population of the world's cities will have increased by 2.6 billion."

³ Philip Cross, 2013, "Six Myths Surrounding the Development of Canada's Natural Resources." Macdonald-Laurier Institute.

⁴ Philip Cross, 2013, "Dutch Disease, Canadian Cure: How manufacturers adapted to the high dollar." Macdonald-Laurier Institute.

⁵ Brian Lee Crowley, 5 May 2012, "Canada, The City," *Ottawa Citizen*.

⁶ MJ Deen and Nicholas Ward, 20 February 2012, "China Pivots Its Growth Strategy to Focus on Domestic Consumption," *National Post*.

⁷ MJ Deen and Nicholas Ward, 20 February 2012, "China Pivots Its Growth Strategy to Focus on Domestic Consumption," *National Post*.

political and other instability. Canada is the only major industrialized country that projects a significant increase in its oil exports over the coming decades, we are an oasis of stability, and our oil resource is increasingly recognized as both the largest in the world and extractable in highly dependable conditions and quantities. Countries around the world will be willing to pay a premium for what Canada has to offer. And it won't just be oil: Rio Tinto expects global copper consumption over the next 20–30 years, for instance, to exceed the total historical consumption to date.⁸

But now we come face to face with the nightmares that haunt those of us thinking about Canada's strategic interests and the likely sources of our future prosperity. For every one of the opportunities I have described requires us to increase our capacity to develop our resources and to move them to market. As we are seeing, for example with the debates over Keystone and Northern Gateway and over pipeline expansion and shale gas here in Quebec, we must now all come to terms with a new reality, namely that the old consensus that well-managed natural resource development projects are in the national interest is breaking down. How we respond will perhaps be the single largest influence on our future prosperity and national power.

Creating a Consensus

At exactly the moment when resource investment and development seem poised to take Canada to unheard of levels of prosperity, we are discovering the weakness of the institutions we have created to manage such growth in the public interest. Many of these institutions are federal.

Take the National Energy Board (NEB). An administrative tribunal, it is premised on the idea that Canadians favour the development of their resources, but want that development to proceed in accordance with high standards of safety, environmen-

tal protection, and social responsibility. Technical experts, paid for by the state, subject things like pipeline proposals to searching analysis and criticism, ensuring that they meet our standards before proceeding. In their analysis they are aided by a hearing process that allows the gathering of more, and more complete information about proposed projects.

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But increasingly a vocal minority sees these regulatory tribunals not as a place to ensure that the rules are followed when we develop our resources, but as a place to argue that such development ought not to be allowed at all.

That, however, is a political and a moral argument that such agencies are not equipped to deal with. Disagreements about whether projects meet our standards can usually be resolved by science and reason. Disagreements over values and beliefs, about whether a pristine environment ought to trump economic growth and job creation, are properly resolved – indeed can only be resolved – in the political arena. We have to separate the question of whether we want natural

resource development from the one about whether specific projects play by the established rules.

The stakes are enormous. Under the current dispensation, thousands of people can sign up to participate in the NEB's hearings, causing serious delays while manifestly not contributing to the tribunal's goal of ensuring a reasoned consideration of the project's merits.

With Canadian oil and gas production on track to exceed pipeline capacity to markets within a few short years, the successful blocking of new pipelines would have the effect of stranding new production and the forgoing of billions of dollars of investment and thousands of new jobs across Canada. Allowing such hijacking of the regulatory process allows a vocal minority to achieve indirectly what they could likely not win through legitimate democratic debate: the power to block natural resource development.

I believe that a large effort is needed to recreate a new national consensus, an effort that engages Canadians and assures them that they can have confidence that such development in Canada will

⁸ Available at www.investmenttools.com/futures/metals/welcome_to_the_page_about_copper_futures.htm

be carried on in an open and accountable manner, to the highest environmental and ethical standards.

The old days of simply being able to force these things through because they were too big to fail and too important to obstruct are over. The time is upon us when we must decide whether we want to continue to fight rearguard actions against politicized minorities with major resources and the ear of the Canadian public, or if we are going to get the Canadian public on board and rob the minority for whom development is always to be opposed on principle of the audience that gives them political power in Canada.

The Duty to Consult and Accommodate

Aboriginal people represent a related but quite distinct problem on which I can do no more than touch lightly. A combination of unextinguished Aboriginal title, an activist judiciary breathing new life into treaties, as well as the elevation of such rights to constitutional status has created an ill-defined Aboriginal right to be consulted and accommodated and to some degree to be involved in and compensated for natural resource development. The very tentativeness with which I have stated the issue helps us to understand the problem created. No one knows how extensive these rights are, who is entitled to exercise them, or how we are to distinguish claims with a good chance of success from the spurious and the exaggerated. At the same time the First Nations and Inuit have enjoyed an impressive, indeed an almost unbroken, string of court victories in seeking to vindicate their rights.

Again the old system of governments and industry bulldozing opponents is coming to an end, and probably rightly so. The simple fact of the national interest favoring such projects does not and cannot mean that we can simply wish away the newfound power of First Nations and Inuit. New accommodations must be found. And I must tell you frankly that agreements that have been struck, with for example the Gwich'in, the Inuvialuit, the Cree in northern Quebec, and elsewhere; they show that agreements are there to be made. Indeed Aboriginal-owned corporations, driven by the natural resource wealth to which they increasingly have access, will within a few short years almost certainly be numbered among the very largest corporations in Canada.

If we want to reduce the terrible costs in negotiation, uncertainty, and delay that we are increasingly encountering, we must find ways to engage First Nations positively, to help them to overcome their distrust and their fear of being taken advantage of. I can tell you I was invited into the offices of the Assembly of First Nations to help them think through what the outlines might be of a standardized approach to natural resource develop-

ment that would relieve so much of the uncertainty for developers while assuring the Aboriginal people of Canada that development can and will redound to their benefit. The work that has arisen from that meeting now occupies a major part of our efforts at my institute.

Indeed when you consider the problems of a future of labour and skill shortages and the fact that Aboriginal people are the youngest population in the country, or you consider that natural resources are usually found in remote rural areas, precisely where many Aboriginal reserves are to be found, and you put all that together with a new generation of Aboriginal leadership like Shawn Atleo, Manny Jules, Clarence Louie, and Calvin Helin, people who want to break the cycle of dependency in which so many Aboriginal Canadians have been trapped, and we have the ingredients to use the natural resource boom to also help us break out of pathologies that have trapped us all in relations between Aboriginals and non-Aboriginals. The old incrementalism will not do.

For some time now Ottawa's attitude has largely been to let Aboriginal people and developers battle it out in the courts and hope for the best. Just as with the environmental movement, this is no longer good enough when the stakes for Canada are so high. Unlike many Canadians who believe that relations with First Nations are a morass into which we sink billions to little effect, I see a new and more positive era dawning. But we cannot be passive; we must seize these opportunities and develop them.

Conclusion

We have what the world wants and needs, not just in our resources, but in the society and institutions that make their stable, safe, and reliable production possible, and in the people whose energy and intelligence have been so good at taking nature's endowment and turning it into products that enrich the lives of people all over the world. Some of those institutions and behaviours are threatened, however, by politically generated uncertainty and this puts at risk our ability to exploit successfully our second most important endowment.

Canada, including Quebec, is and can continue to be a lucky country. But as a wise man once said, people make their own luck and it is up to us to continue to make ours. ✱

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The text of this Commentary is taken from a speech he delivered to le Cercle de la finance internationale in Montreal on May 15, 2014.



Industry Minister James Moore addresses more than 200 guests at OpenText Corp.'s headquarters in Waterloo, Ontario, on April 4 at the launch of Digital Canada 150. Rainer Leipscher, CP Images/Industry Canada

How Canada can expand its innovative reach in the digital economy

The authors contend that the complexity of the problem requires all parties, not government alone, to participate in building solutions for a better business environment. They issue a call to action to industry executives, suggesting that while Canada's start-up community and leaders in Canadian hi-tech are doing a great deal, given the amount of work that needs to be done and the importance for our future prosperity and competitiveness in the global Internet economy, all hands must be on deck.

Elaine Depow and Jeremy Depow

Privacy. Data. Adoption. Disruption.

The words are big, the ideas even bigger. A strong digital economy in Canada will bring high-value jobs, as well as ensure Canada remains a global leader in research and development, innovation, and digital technologies.

Many Canadians take the shift to becoming a digital country for granted, assuming the challenges of the digital economy – like other pressing problems – will inevitably be addressed by someone, at some point.



Canadians express frustration when their government cooks up fast-food public policy, but blaming government is not the answer. Canadian public policy is something that belongs to all sectors, not a commodity belonging only to a

small group of wonks in the National Capital Region. Government can only so do much, it can only go so far.

Meaningfully improving Canada's innovative reach

requires building networks and engaging the know-how, talent and expertise of all sectors – public, private and civic. What with their prominence, capital and proverbial bandwidth, industry executives are in a particularly ripe position to show leadership in the development and execution of digital public policy.

Digital Canada 150, the highly anticipated follow-up to the government of Canada's 2010 Digital Economy consultation was unveiled on April 4, 2014 from the corporate headquarters of OpenText in Waterloo, Ontario, amid fanfare and photo ops. Importantly, this announcement represents an ambitious statement by the Canadian government about becoming a global leader in the digital space.

The document itself is comprehensive, and identifies five areas that will guide Canada's digital policy path, including: connecting Canadians; protecting the online environment; encouraging economic opportunities; making government digital; and supporting the growth and diffusion of Canadian content.

These points of emphasis are derived directly from the 2010 online consultations, a digital participatory experiment which attracted more than 2,000 submissions on a range of issues, including building our enhanced digital infrastructure, increased technology exports, and realizing greater productivity through business use of technology and arming the workforce with relevant and appropriate skills.

Subsequent to *Digital Canada 150's* rollout, Industry Minister James Moore visited Silicon Valley to promote Canada's digital advantage to corporate executives from Google, Twitter, Microsoft and Facebook. "Our government's top priority is creating jobs and growth," Moore said, "and promoting Canada's digital economy is an essential part of our plan."

Moore is an activist Minister; his priorities are clear and focused, and a sure sign of the government's commitment to moving digital policy forward. And so while the actions taken by the federal government are deserving of recognition, engaged Canadians know that government can only go so far, shackled as it is by political and bureaucratic constraints and a deeply embedded aversion to risk. Michael Geist, Canada Research

Chair of Internet and E-Commerce Law at the University of Ottawa dismissed *Digital Canada 150* as "the digital strategy without a strategy."¹ Geist contends that despite the onslaught of government updates and announcements, the approach lacks depth and long-term sustainability. "Most disappointingly," Geist notes, "*Digital Canada 150* lacks a big picture goal or target that might have made the whole greater than the sum of its parts."²

Similarly, in his article *A Roadmap for the NCE's Next 25*

Years, Dr. Peter Nicholson addresses this gap, and contends that translating government hyperbole into concrete, actionable policy requires reaching outside traditional thought leadership circles. "Innovation occurs in a larger ecosystem that includes material resources, human capital, institutions (e.g., post-secondaries and their funders, venture capitalists) and policy makers)," Nicholson explains. "Building a more innovative Canada requires that we enhance the performance of the entire ecosystem and crucially, the interactions among its various elements."³

Though Nicholson's argument refers specifically to the critical role of the Networks of Centres of Excellence (NCE) program, his ideas represent a new current in the thinking around how policy recommendations and decisions ought to be made. In short, the process needs a reboot, stat.

Fixed to Fail?

Dismissing the government's initial consultative process as unsuccessful would be unfair. Though the initiative did not result in revolutionary change, it readjusted the national mindset. Significantly, Canadians were forced to put on their thinking caps and contribute the best capital they have access to: their ideas. For instance, the period between the first and current phases produced the much-hailed Jenkins Report. Led by

“Our government’s top
priority is creating jobs
and growth, and promoting
Canada’s digital economy is
an essential part of
our plan.”

- Industry Minister James Moore

¹ Dr Michael Geist <http://www.michaelgeist.ca/content/view/7103/135/>

² *ibid*

³ Dr Peter Nicholson, *A Roadmap for the NCE's Next 25 Years*. RE\$EARCH MONEY, April 15, 2014

⁴ Tom Jenkins <http://rd-review.ca/eic/site/033.nsf/eng/home>

former OpenText CEO Tom Jenkins, the expert panel sought advice from the scientific community, business and academia, and found that government needs to simplify its approach to R&D funding. “What we found was a funding system that is unnecessarily complicated and confusing to navigate,” said Jenkins. “There are also significant gaps that hinder the ability of our businesses to grow and that keep Canada from taking full advantage of this country’s innovations.”⁴

Although the Jenkins Report helped streamline the funding process, the great Canadian productivity gap remains consistent and intact. Canada is often derided for its poor productivity performance, a detail which slows potential for innovation, and continually puzzles policymakers. Earlier this year, Statistics Canada revealed that small business may be the reason Canadian productivity continues to lag,⁵ an eye-opening realization beset with irony. Small business is often celebrated as a pillar of the Canadian economy; it is applauded as a symbol of perseverance and ingenuity. But the numbers tell a different story.

Reporter Brett Bundale commented on this finding, and observed that, “(The) productivity gap is the result of this country’s dependence on small business.”⁶ Together with the cultural aversion to risk-taking, Canada’s digital economy is fixed to fail.

Unless there’s another way.

Grabbing Grass by its Roots

Transitioning to a digital economy requires an all hands on deck approach to public policy. From Cabinet directives to deputy ministers, then deep down through line departments, the government folks have done their part. What’s often overlooked, however, is that the responsibility for smart public policy is not government’s alone. In the Center for Digital Governance paper *True Strong and Digital*, Depow and Taylor argue in favor of a multidisciplinary approach to driving the digital discussion forward. In particular, Depow and Taylor note that, “sectors, and sectors working together, matter. For a digital economy to succeed, all three sectors – public, private and civic (nonprofit) –

need to engage and be engaged.”⁷

Moving to a wholly digitized economy is both a profound challenge and tremendous opportunity. Since no single sector can meaningfully go it alone, it follows that a collaborative approach is not only instructive, it’s essential. Minister Moore’s blueprint for a digitized Canada is far from perfect – there is no shortage of question marks swirling around how the initiative intends to achieve its goals. Criticizing government, however, is easy. When it comes to the digital economy, the government has, admittedly, exceeded what’s usually expected of them, both in terms of substance and maneuvering around the usual red tape.

Civil society – the large group that loosely encompasses non-profits, academia, and other strapped-for-cash but passionate visionaries – is overflowing with skills, ideas and expertise. Canada’s startup community, for instance, has been instrumental in explaining how and why entrepreneurship is essential to keeping the digital ship afloat. Startups are bursting with ideas; though their capital is almost always limited, their contribution is apparent from the energy they bring to the digital discussion. And let’s face it: Canada needs to be entrepreneurial to succeed in the digital world.

But since good ideas are only as good as the capital they amass, the story cannot be told without emphasizing the importance of the private sector, the place where innovation churns and disruptive technology happens in real time. Getting the private sector on board actually means convincing the corporate leaders from privately held companies that they have a singular responsibility to drive the process forward. What’s tricky, however, is finding ways in which to draw on the strengths of each sector while limiting redundancy.

The policy formula is straightforward and clear: Canada can achieve meaningful innovative reach by engaging the strengths of all sectors – public, civic, and especially the leadership of private sector industry executives. Acclimatizing to a truly digitized economy is a process that must be organic and incremental: policymakers need to keep it Canadian. ✱

⁵ Danny Leung and Luke Rispoli, *The Distribution of Gross Domestic Product and Hours Worked in Canada and the United States Across Firm Size Classes*, <http://www.statcan.gc.ca/pub/11f0027m/11f0027m2014088-eng.pdf>

⁶ <http://thechronicleherald.ca/business/1178614-canada-less-productive-than-us>

⁷ Elaine Depow and Paul W. Taylor. *True, Strong and Digital: a Discussion of Innovation, the Economy, and National Interests on a Small Planet*. Center for Digital Government, a division of e.Republic, 2011.

Elaine Depow is the founder of *Jungle Research + Public Affairs*, a PhD candidate in political communication, and a policy advisor to hi-tech companies.

Jeremy Depow is the founder of *Canada’s Digital Policy Forum*, a non-partisan non-profit that facilitates discussion to help policymakers work through priorities for the digital economy.



Assessing the 2004 Health Accord

The Good, the Bad and the Ugly

The authors, the incoming president and a current vice-president of the Canadian Medical Association, examine the legacy of the 2004 federal-provincial health accord and look at the affect that the aging population will have on Canada's health care system.

Dr. Chris Simpson and Owen Adams

What will be the legacy of the 2004 Health Accord? The now-expired accord was the result of a First Ministers' meeting that took place in Ottawa in September 2004 over the course of a few days and considerable back and forth between Ottawa and the Premiers. It was built on two previous accords that came out of First Ministers meetings in September 2000 and February 2003 respectively. The 2003 accord followed on the heels of the release of the Romanow report in November 2002.

Together, these accords broke new ground in terms of the inclusion of targeted funding for things like medical equipment and electronic health records, as well as increases in the Canada Health Transfer (CHT). The 2004 Health Accord built on the process by including 10 broad commitments.

So how did the 2004 accord do? It is worth examining what was accomplished under the headings of the good, the bad and the ugly, and concluding with what we should do next.

The Good

Starting with the good, the largest single commitment of the September 2004 accord was the \$5.5-billion Wait Times Reduction Fund (WTRF), intended to reduce waiting times for radiation therapy for cancer, coronary bypass surgery, diagnostic imaging, hip and knee replacement and cataract surgery.

While the wait time problem for scheduled procedures has not been licked yet – far from it in fact – great strides have been made over the past 10 years. The accord contained provisions for specific observable targets for wait times for these procedures, the most

important of which was the call for evidence-based benchmarks for medically acceptable wait times for the five treatment areas to be established by December 31, 2005.

The medical community was immediately galvanized by this challenge. The Canadian Medical Association (CMA) came together with six national specialty societies in the fall of 2004 and set about developing benchmarks under the banner of the Wait Time Alliance (WTA).

The WTA released interim benchmarks in April 2005 and final benchmarks in August of that year. We believe that this consensus among medicine was a key contributing factor leading to the December, 2005, announcement that provincial-territorial health ministers had agreed to common benchmarks for four of the five treatment areas. To this day, a benchmark for diagnostic imaging has never been established by governments.

The WTA has issued annual report cards since November 2006. Since its founding, the WTA membership has doubled to 14 members and also includes four partners.

The 2013 report provided ratings for 30-plus conditions for which data were available in at least one province. The WTA reports have been very effective in influencing the provinces to improve their wait time reporting websites, and the 2014 report singled out several provinces — Ontario, Newfoundland and Labrador and Saskatchewan — for making sustainable progress. But the 2014 report card concluded Canadians still deserve a lot better, suggesting we take a hard look at progress made in Scotland, where long wait times are becoming a thing of the past.

To be sure, there have been critics of the WTRF who have argued that the chosen five categories drew resources from other areas. But a major spin-off from the wait times effort has been the stimulation of research and knowledge exchange. There has been a significant impetus for operations research in Canadian health care, such as the establishment of Professor Michael Carter's Centre for Research in Health Care Engineering at the University of Toronto, and the adoption of lean management techniques.

In terms of knowledge exchange, building on a small roundtable that was convened by the CMA in 2004 to discuss wait times in international perspective, a consortium of organizations have


come together to sponsor an annual series of Taming of the Queue conferences. These conferences attract presenters and participants from across Canada, essentially creating a community of practice.

So, while we have not beat wait times, significant progress has been made. And there are ambitious goals. The Saskatchewan

government promised in 2010 that by March 2014 no one would have to wait longer than 12 weeks for surgery. It looks like it will take one more year to reach the target. But this is impressive nonetheless. Moreover, Saskatchewan is now looking ahead to eliminate emergency department wait times by 2017.

The Bad

Two areas of the accord have been profoundly disappointing. These were the commitments on accountability and reporting to citizens and a national pharmaceuticals strategy.



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Accountability and Reporting

The accountability and reporting commitment actually began in the 2000 accord in which First Ministers agreed to develop a framework of common indicators and to begin reporting by 2002. Indeed an initial series of reports were issued in 2002.

This commitment was reinforced in the 2003 accord, which included an annex of some 40 indicators and a direction to health ministers to develop additional indicators. The 2004 accord added a commitment to report on the elements of the accord, plus agreement that the now-defunct Health Council of Canada would report annually on the health of Canadians and the elements of the accord.

A second set of reports was issued in 2004, but thereafter the provincial reporting went off the rails and the indicator development ceased. This was noted in the first three-year review of the accord that was conducted by the House of Commons Health Committee in 2008. The all-party committee called for the completion of a set of common indicators by March 2009. The second three-year review by the Senate also called for indicator development among its 46 recommendations.

To its credit, Health Canada has continued to publish indicator reports, the most recent being for 2010. And we would be remiss if we did not salute the efforts of the Health Council of

Canada to monitor the accords. Its closure on March 31 this year leaves a gap.

The conclusion we would draw from this is that the provinces and territories are resolute in resisting attempts to facilitate benchmarking their performance against each other. This is unfortunate for two reasons.

First, there is significant variability across jurisdictions on some key indicators. For example, Statistics Canada's most recent life tables show life expectancy at birth is almost seven years longer in British Columbia than in the Territories.

Second, this silo mentality in reporting is obscuring attention from Canada's decline in indicator performance internationally. In 1980 Canada ranked seventh in the OECD for life expectancy, at 0.8 years below first-place Japan. As of 2011 we were tied with three other countries for 13th place and the gap between Canada and Japan has doubled to 1.6 years.

The Canadian Institute for Health Information (CIHI) has recently put in place a performance indicator system called ourhealthsystem.ca which comprises 15 indicators that can be drilled down from the province/territory to the health region and hospital level where available. Let's hope it will develop traction.

National Pharmaceuticals Strategy

The failure of governments to follow through on the accord commitments on pharmaceuticals is a disgrace.

This was initially a 2003 accord commitment that by March 2006 all Canadians would have access to catastrophic drug coverage. In the 2004 accord this was watered down to the development of costing options for catastrophic coverage, and estimates were indeed produced in the 2006 progress report. But nothing has been heard since.

The existence of wide variability in prescription drug coverage has been well documented. According to Statistics Canada, almost 1 in 10 (7.6 percent) of households spent greater than 3 percent of after-tax income on prescription drugs in 2008. Across provinces this ranged from 4.6 percent in Alberta and 4.7 percent in Ontario to 13.3 percent in PEI. Statistics Canada has since discontinued this indicator.

On the Commonwealth Fund's 2013 International Health Policy, 8 percent of the Canadian respondents said that they had either not filled a prescription or skipped doses because of cost issues.

Moreover, there have been numerous media stories about inequities in access to cancer drugs across the provinces. Research conducted for the CMA in 2012 showed that almost one in five households (18 percent) does not have supplementary insurance coverage that would cover prescription drugs.

In consequence, governments are going it alone; New Brunswick and PEI are the most recent provinces to introduce catastrophic drug coverage.

Looming on the horizon is the issue of the so-called orphan drugs – the expensive drugs that are used to treat rare diseases. In 2012 the federal government announced it was working on an orphan drug framework for Canada but this has

yet to appear. To their credit, the members of the Canadian Life and Health Insurance Association have developed a risk pooling framework for fully insured private drug plans to share the cost of highly expensive drug treatments.

In summary, a lot of ideas have been put forward for ensuring that all Canadians have access to prescription drugs without bankrupting them. The Kirby proposal of 2002 was the most workable of all and it is very unfortunate that so little progress has been made from a national perspective.

The Ugly

Last, we turn to what is likely to become ugly in terms of a renewed era of sabre-rattling between Ottawa and the provinces and the territories, and further balkanization of health care across jurisdictions.

Back in the mid-1990s, Ottawa unilaterally reduced the cash transfer for health by \$6 billion over two years on the heels of a recession that saw reductions in real per capita health spending from 1993 through 1996. For the provinces, this further eroded both the real and symbolic value of the historical federal-provincial cost-sharing of 50:50 that began with the shift to Established Programs Financing in 1977. In their January 1997 *Renewed Vision for Canada's Health System*, the provincial-territorial health ministers reported that the federal contribution had dropped to 16 percent.

It seems only a question of time before the provinces and territories mount a renewed challenge to the federal government's moral authority to enforce the Canada Health Act.

As a result of the three health accords, the CHT now represents just under 22 percent of provincial-territorial health spending. However, in a few years' time that is about to decrease.

In its October 2010 fiscal update, Ottawa gave an early indication that it would extend the 6 percent escalator for an additional two years, and during the 2011 federal election campaign the Feds said they would sit down with the provinces to renegotiate the accord.

However, on December 19, 2011, the late Finance Minister James Flaherty made a unilateral announcement that the 6 percent escalator would be extended for three years through 2016-17, and thereafter linked to nominal growth in Gross Domestic Product, with a floor of 3 percent, through 2023-24.

In its 2013 Fiscal Sustainability report, the Parliamentary Budget Office has projected the impact of the new arrangement over the 2012-2087 time period. Their results indicate that the CHT as a percentage of provincial-territorial and municipal spending will decline to 12 percent during the last 25 years of this period. It seems only a question of time before the provinces and territories mount a renewed challenge to the federal government's moral authority to enforce the *Canada Health Act*.

The first salvo was fired in the summer of 2012 when the Council of the Federation Working Group on Fiscal Arrangements estimated that over the 10-year period to 2023, the provinces and territories will receive \$25 billion less in CHT cash under the new fiscal framework. This was echoed in the recent 2014 Ontario budget.

Demographic aging is also going to increase tensions. Atlantic Canada is already older than the population as a whole and this is going to be exacerbated. By 2030 almost three in 10 residents of Newfoundland and Labrador will be 65 and older, compared to just over one in five nationally.

Since the worldwide recession of 2008, industrialized countries have been reining in health spending, and Canada is no different. According to CIHI, nominal increases in total health spending have dropped by half to an average 3 percent over the past three years – which represents a small drop in real per capita spending.

However, we have to ask if we have truly bent the cost curve, or if we have just pushed some demand and costs out to the future.

A recent editorial in the British Medical Journal describes the finances of the English National Health Service as the “tanker en route for the iceberg”, with the prediction that the collision will occur before 2015-16.

On the positive side, however the Prime Minister's dismissal of the Premiers' request for a health innovation fund in January 2012

resulted in the formation of the Council of the Federation Health Care Innovation Working Group. The CMA and the Canadian Nurses Association and the Health Action Lobby were delighted to have been heavily engaged in the first iteration of its work – although the CMA's level of engagement has since diminished.



What Next?

So, what's next? While all provinces have some sort of seniors' strategy, there has been very little, if any national policy attention on seniors' health care.

In 2008, noted demographer David Foot stated that we had a window of opportunity to improve health care before the baby boomers make their peak health care demands in the 2020s and '30s.

Time is running short. The first boomers will reach the age of 75 in 2021. According to CIHI, per capita spending jumps by one-third between the 70-74 and 75-79 age groups and continues to escalate thereafter. We believe that there is an urgent need for a national seniors care strategy that includes the following key elements:

- community and institutional human and physical infrastructure capacity that covers the continuum of home-care to facility-based to palliative care;
- support for informal caregivers; and
- addressing funding issues such as providing tax incentives for individuals to save ahead to cover health needs not covered by the publicly funded health system.

We hope that political parties will give this issue serious attention in their platforms for the 2015 federal election. ✱

Dr. Chris Simpson is the incoming president of the Canadian Medical Association and chairman of the Wait Time Alliance. **Owen Adams** is Vice-President, Health Policy & Research at the Canadian Medical Association in Ottawa. This text is adapted from a speech delivered May 21, in Ottawa.



“I look at Northern Gateway and see a project that will build families and communities for generations. That’s what I’m most proud of.”

— Catherine Pennington, Senior Manager, Community Benefits & Sustainability



Meet the expert:

Catherine Pennington spearheads our community benefits and sustainability initiatives which include education and skills development. For over 10 years, she has lived and worked in Northern B.C. with First Nation and Métis communities, creating partnerships and programs that focus on improving employment and social outcomes for the long term.

We at Northern Gateway are committed to ensuring that jobs and business opportunities will be available to people living near the Project’s right-of-way. To date we have invested \$3 million into the Gateway Education and Training Fund which has already benefited more than 1,000 people across B.C.

— DEDICATED TO MEANINGFUL ABORIGINAL INCLUSION —

Catherine connects willing job seekers with existing and emerging opportunities. She is focused on helping the Project meet its goal of having Aboriginal people comprise 15 per cent of the construction workforce.

“I believe people in Northern and North Western B.C. have yet to fully realize their enormous potential. By actively investing in better education and skills training, opportunities for advancement and connections to good, steady jobs, we know we can make a real difference.”

— IT ALL ADDS UP TO COMMUNITY DEVELOPMENT —

In Catherine’s experience, removing barriers to employment has a huge impact – not just on individual job seekers, but on their communities as well. When you connect someone to a job, you also build individual and social pride, enhanced connections, dignity and ultimately, stronger sustainable communities.

“As a trained social worker with experience in community development, I have found it very rewarding to work in industry. You have the opportunity to create really meaningful outcomes that are mutually beneficial.”

— SUCCESS ACROSS THE NORTH —

We have held discussions with numerous training providers, colleges, universities and employment service providers in Northern B.C. to identify programming needs to help Aboriginal and local people take advantage of the surge in energy projects in the region.

“Fundamentally, there’s nothing more powerful than helping someone make that connection to employment, because it leads to a larger, more positive and healthier social outcome.”

As a company and a neighbour, we want to see Northern residents get the best opportunities because that benefits us all. It’s how we will build a safer, better pipeline and help build a better B.C.



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Prime Minister Stephen Harper is greeted by Oleksandr Turchynov, Acting President of Ukraine, upon his arrival at the Verkhovna Rada of Ukraine.

PMO photo by Jason Ransom

Canada and Ukraine

Lessons for our multicultural country in an age of multilateralism

Drawing upon her background as an international journalist as well as her recent experience as part of Canada's election monitoring mission in Ukraine, Liberal MP Chrystia Freeland explores the nature and extent of Canada's influence in the world.

Chrystia Freeland

One of the biggest foreign policy challenges in the world today is Ukraine's struggle to become a rule-of-law democracy. This is an effort of consequence not just for Ukraine and its trading partners. It matters for the world, too, because Russian President Vladimir Putin has decided that the

Ukrainian struggle poses an existential threat to his regime, and he is prepared to break international law to stop the Ukrainians from succeeding.

We tend to be instinctively suspicious of foreign policy framed in monochromatic moral terms – and we should be. The

world is a complicated place, and no one has a monopoly on virtue. But the fight in Ukraine really is a clash of values.

Ukraine is where Russia, and countries that are watching it, will discover whether irredentism, and the violation of international borders and treaties in its pursuit, is permissible in the 21st century. Ukraine is where Europeans will learn whether their society and their political leadership are strong enough to defend the European idea. And, crucially, Ukraine is where the world will find out whether it is possible for a well-organized and highly-motivated civil society to stand up to kleptocratic authoritarianism.

This last battle is being watched most closely in Russia and will play an essential role in that country's political future. The success of democracy in Ukraine is a necessary, though not sufficient, condition for the success of democracy in Russia. That matters greatly.

For everyone who believes that Canada has an essential role to play in the world, the good news is that we are making an impact in Ukraine. There is cross-party support for Ukrainian democracy in Ottawa, and that is felt in Kyiv. On two trips to Ukraine this spring, I've been told repeatedly and gratefully that Canada was Ukraine's staunchest ally in the G-7.

When I've come back home, though, I've heard questions about Canada's role in Ukraine that are really questions about our wider role in the world:

- Can middle-power Canada really have a meaningful influence on world affairs?
- Is Canadian foreign policy in countries like Ukraine, which are connected to a large Canadian immigrant community, only about pandering for domestic votes?
- Is a broader national interest served by our policy in countries like Ukraine?

The answers are yes, no, and yes, and exploring why that is so for Canada in Ukraine could be the start of a wider conversation about how our diversity at home can help us in the 21st century to achieve the great Pearsonian mission of punching above our middle weight in the world.

Start with the question of impact. It is surely very Canadian that I heard much more doubt about the efficacy of Canada's voice back home than I did in Ukraine. Modesty is a virtue,

but self-doubt can be a fault. The good news I bring back from Ukraine is that Canada's position was widely known and universally acknowledged to be significant. Of course, Canada doesn't have the power of the United States or of Germany. But Canada still has moral authority in the world and through our membership of the G-7 and NATO. In Kyiv, it was clear this counts. We should be more self-confident about our power in the world, and more conscious of the responsibility that imposes.

Rather than being daunted by the reality that we are not our continent's giant, we should be strategic about leveraging our own welter-weight muscle. Sweden is a valuable example. Carl Bildt, the Swedish foreign minister, has been thoughtful about how his country of less than 10 million can have a voice in the world.

One of his answers has been to develop a deep expertise and strong networks in countries he judged to be strategic to Sweden, and thus to Europe, but which were too small to be at the top of the global foreign policy agenda. That group included

Ukraine, Moldova and Belarus, countries to which Mr. Bildt sent his strongest diplomats, and where he himself has been very active. Mr. Bildt's thinking was that when the world's conversation turned to these countries, as he believed it inevitably would, Sweden's long-term investment would pay off in an enhanced role for Stockholm in Brussels and at the UN.

Today, Sweden is reaping the harvest of this long-term approach in Ukraine. Sweden, and Swedish diplomats, are playing a key role in a conflict at the centre of world affairs not because of their country's economic or military might, but thanks to its intellectual capital and long-term vision. Call it knowledge diplomacy.

The post-war world in which Lester Pearson developed his vision for Canada was a uniquely favourable environment for a middle-power which had not been razed by the Second World War. But the 21st century, especially post-2008, provides a lot of opportunity, too.

As Pearson taught us, multilateralism is a particular boon to middle-weight powers, whose global solos risk going on unheard, but whose voice can be magnified by singing in a choir. The good news, as US President Barack Obama argued in his West

*Ukraine is where the world
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to kleptocratic
authoritarianism.*



Prime Minister Stephen Harper and John Baird, Minister of Foreign Affairs, meet with Vadym Prystaiko, Ambassador of Ukraine to Canada, Milan Kollár, Ambassador of the Slovak Republic to Canada, and other European Ambassadors to discuss the situation in Ukraine. PMO photo by Jason Ransom

Point foreign policy speech this spring, is that, as Asia rises and the US and European middle classes feel economically squeezed, even the world's great powers are setting more store by multilateral institutions. We should, too.

An invaluable resource in that mission is our multiculturalism. Our national talent for living in diverse societies is itself a calling card and an expertise the world is keen for us to export. And the deep knowledge and networks of our diverse communities are a powerful tool, too.

There is sometimes a suspicion, particularly among foreign policy professionals, that politicians who make the connection between constituents at home and policy abroad are just pandering for votes. That can be true.

But, as a Ukrainian-Canadian, I also know that our diverse communities are a source of very rich expertise and connections, and that they can often have a more profound understanding of what is going on in the countries they or their parents come from than do the professors of our finest universities. (I learned this lesson

Our national talent for living in diverse societies is itself a calling card and an expertise the world is keen for us to export.

at Harvard in the late 1980s, when my grandparents and their peers in northern Alberta were far better forecasters of the collapse of communism and the Soviet Union than my tenured teachers were.)

Multiculturalism at home can help us to understand the world better, and can give Canada an automatic entre and prestige abroad. We are entering a new age of multilateralism. If we are smart about it, multicultural, middle-weight

Canada can have another Pearson moment. ✨

Chrystia Freeland is the member of parliament for Toronto Centre. She was born in Alberta, and studied at Harvard and Oxford Universities. She began her journalism career as a Ukraine-based stringer for the Financial Times, Washington Post, and The Economist. She later served as managing editor of the Financial Times before moving to Canadian-owned Thomson Reuters as editor-at-large. She is the author of two books, including *Plutocrats: The Rise of the New Global Super-Rich and the Fall of Everyone Else* (2012).



Answer the call

The following is the speaking notes for an address by the late former Finance Minister Jim Flaherty to students at the University of Western Ontario's Ivey School on October 11, 2011. In the speech, Mr. Flaherty encouraged his audience to consider a career in public service.

Jim Flaherty

I am happy to be here. This is a room full of important people. You are the people our country needs in the highly competitive and challenging global marketplace of today and tomorrow.

Our future success depends on you.

You are the leaders of tomorrow.

I want to talk about tomorrow. But first I want to spend a few moments on yesterday.

I was raised in a household of eight children. Needless to say, my mother kept the house in order and ruled the roost.

My mother believed firmly in the benefits of cod liver oil for the treatment of various maladies, in fact, most maladies. It tasted awful. So, my seven brothers and sisters and I would resist at first. We would relent in the end for two reasons: it was actually good for us and, perhaps more importantly, mother was not to be disobeyed.

I am not your mother. I don't have to be obeyed. But today I am here to urge you to consider something that will be good for you. I want you to consider public service as part of your career path. I recommend it, knowing from experience that public service will not be easy to take at times but it will be good for you in the end result. I can offer no greater assurance.

After taking the good advice of my mother, I eventually graduated high school and moved from home. I was fortunate to take my undergraduate degree at Princeton University. During that time, it was my privilege to attend a speech delivered by Robert Kennedy. His message to my own generation was crystal clear: "I need you. Your country needs you. The world needs you. You are the best and brightest of your generation."

Canada needs you

Today, about 40 years after I heard Kennedy speak, my message is the same: Canada needs you – your skills, talents, idealism, energy and enthusiasm.

Now, more than ever.

At the same time, you need Canada. Because, as I can tell you, public service is good for you. It will give perspective to your life by expanding your horizons, your thoughts, and your view of the world. You will learn that some issues and concerns are more important than others. This leads to discernment as choices must be made. This perspective will be useful in all aspects of your life.

Public service reminds us all that there exists a genuine concept of the public good in the broad public interest. While we value individual liberty and protect it, as Canadians we also maintain a strong tradition of the public good, that is, what is good for society as a whole, on balance, taking into account disparate interests and adopting the longer view. In public service you will participate in advancing this public good.

Public service is good for you. It will give your life a greater impact on others and your country. My high school, Loyola High School in Montreal, has its motto: "a man for others" (it's an all boys school). My alma mater maintains its motto of "Princeton in the nation's service."

Woodrow Wilson, president of Princeton before becoming President of the United States, had this to say in 1916 to the graduates of the U.S Naval Academy:

I congratulate you that you are going to live your lives under the most stimulating compulsion that any man can feel, the sense, not of private duty merely, but of public duty also. And then if you perform that duty, there is a reward awaiting you which is superior to any other reward in this world. That is the affectionate remembrance of your fellow men – their honour, their affection.

In many ways ranging from individual matters to community concerns to national and global issues, the opportunities to be a positive force for others in public service are both plentiful and fulfilling.

That will make you happier ultimately. We are, of course, not in the world alone and our lives here are finite. People seek to have an impact on broader public issues recognizing the intrinsic value of reaching out to others not only to maintain and reinforce shared common values, but also to create new initiatives and innovations.

This societal public good is not incompatible with the private good. Our individual and family responsibilities are primary. Yet the desire to accumulate private goods in the end does not lead to satisfaction simply because, as we all learn, enough is never enough. On that train, some people will always be in the cars ahead.

If money was all that mattered to me, I would still be working as a lawyer in downtown Toronto. Because I can tell you, I would be making a lot more money than I am now. But I would have missed out on so many experiences that have enriched my life. And I would have missed out on so many opportunities to shape and implement public policies that, in my opinion, have enriched others' lives and made our communities and country stronger.

Change the world around you

Public service is good for you. You will have opportunities to change the world around you in varying ways and to different degrees, large and small.

You will get opportunities and to use your talents to implement your thoughts and beliefs. In concert with others, accomplishments will follow. Great adventure this, for disappointments and failure will follow also. Boredom, however, is not on the agenda.

One little anecdote. One of the most testing times in my career in public service was the recession that began in the Fall of 2008.

In fact, we were in the midst of an election when it hit with full force. Had we been aware of the crisis on the horizon, the prime minister would have been unlikely to call the election.

Nevertheless, that was the situation. So I found myself campaigning for re-election in Whitby-Oshawa while juggling an increasing number of phone calls with the G7 finance ministers as we all became more aware of the breadth of the worldwide economic crisis.

One of the most surreal moments was Election Day itself. I was doing what we call in politics a *Burmashave* where you stand by the road and wave at passing motorists. While I don't know if this technique actually gets you votes, I do know that it keeps nervous candidates busy and not bothering their campaign team,

the ones doing the real work.

At one point that morning I had to run down from the side of the road into the Whitby Brick parking lot and get on my cell phone to discuss the latest twists in the crisis with the American Secretary of the Treasury and my other G7 colleagues.

When I was your age, had anyone ever told me I'd one day be speaking to an American cabinet officer and Britain's Chancellor of the Exchequer while in a department store parking lot, I would have questioned their sanity.

But this is what could await you. In this room it's conceivable that we could have future mayors, future deputy ministers, chairs of school boards, a minister of foreign affairs, or perhaps even a future prime minister.

In order for this to happen, however, you have to answer the call – the call like the one I heard Bobby Kennedy make so many years ago. Being involved in public service is an honour for me. I know that all MPs of all parties in the House of Commons, and members of the non-partisan public service at all levels, feel the same way.

Not for the money

Public service is good for you. It's unlike any other career. It features long hours, relatively lower rates of pay than comparable positions on Bay Street, and it is often decades before you can witness the positive results of your labour.

Some of you might then ask: "If the hours are long and the pay low, why would I do it?"

The answer is simple: It is the most satisfying and personally enriching career you will ever find. This, my friends, is priceless.

Your parents will definitely remember Bill Davis. Mr. Davis served as Premier of Ontario from 1971 to 1985. Quite rightly, politicians and commentators of all political persuasions consider him one of the great Ontario Premiers of the 20th century.

After his retirement from politics, Mr. Davis, a lawyer by profession, was offered a position at one of Toronto's leading law firms. The job finally allowed him to realize a salary equal to what his fellow law school graduates had been making for years,

while he worked at Queen's Park as a young backbencher, cabinet minister and later Premier and party leader. The new job also came with an impressive office and fine view of Toronto's downtown – much better, I might add, than the view from the Premier's Office at the Ontario Legislature.

Two-years after accepting this position – which he excelled at – Mr. Davis was interviewed by Steve Paikin of TV Ontario.

"Steven, let me tell you something," the former Premier said, "This job – on the most exciting, interesting day– can't touch being Premier of Ontario on the dullest."

So I return to my theme.

Public service is good for you. It will develop your character as you will need courage to act on crucial issues while rejecting the venality and self-interest that frequent public affairs. Character requires purposefulness, steadfastness and, as Sir John A. McDonald was fond of saying, "looking a little ahead, my friends". Character contrasts

with short term celebrity witnessing, as we do, the tendency of celebrities to under achieve in public service and to fail to stay the course.

Anyone in this profession will tell you that working in the public sector is more than simply coming in every day and finishing a series of tasks.

Rather, public service is a higher calling, one which can result in long days and little sleep, but rewards you with the knowledge that rather than working for the interests of a company, or a corporation, you work in the interest of every single citizen within this great country.

It is something that makes me truly happy. But it's important to know why this, more than any other career I've had makes me happy.

I don't mean to say that I'm "happy" because this job is easy, it doesn't make me happy because I get to meet so-called important people, it doesn't make me happy because I get to see my name in the newspaper, or my face on TV. No... it makes me happy because I know that making the decision to enter public service was right.

“Public service is a higher calling, one which can result in long days and little sleep, but rewards you with the knowledge that rather than working for the interests of a company, or a corporation, you work in the interest of every single citizen within this great country.”

- Jim Flaherty

I know that it is right to want to serve your country. That it is right to want to help your fellow citizen. That it is right to want to work for a better, stronger, and more robust country. That it is right to say “we can do better.” And that it is right to stand up and be there for Canada.

It is good for me. And it will be good for you. You will be challenged in many dimensions. Your heart and mind will be engaged on public issues for the public good.

Public service will enrich your skills and your resumes – even if you don’t decide to work your whole careers in the public sector. Public service offers valuable training opportunities such as the chance to interact with Canadians across Canada or to perform high-tech research alongside the top scientists in Canada. These are skills and experiences in wide demand in the private sector as well.

Now, politics in the sense of standing for or holding public office, is a form of public service but only one form.

There are many others:

- Community groups such as local chambers of commerce or environmental organizations.
- Local service organizations like the Lions Club or the Knights of Columbus.
- Charitable organizations like the Red Cross.
- Cultural entities like the local library or heritage association.
- The civil service.
- School boards, church groups, and local minor sports organizations.

My choice, in recent years, has been public office. So I will return to that. Oftentimes, the public perception of those who seek or obtain elected office is jaded.

Some of this pessimism is earned: the world of politics, like other occupations, does not exclude the self-absorbed or the narrow minded.

While there are necessary yet at least temporarily unpopular decisions taken from time to time by governments, and certainly there are some disappointing elected persons, the public good in my view would be served better if all of us in all walks of life sought more balance in our perspectives.

That is, the balance that comes with the acceptance of the realization that we are all in this together seeking the public good and that, with the exception of some scoundrels to be found in all walks of life, including politics, we share that goal.

So, the paramount question for all of us, including the media, remains: What is the public good for the country?

Almost 100 years ago, one of Canada’s greatest prime ministers, Sir Wilfrid Laurier, addressed a group of Ontario youth.

It was less than a month before his death in February 1919.

He admitted that his generation had not solved all of Canada’s problems and was leaving much unfinished in their wake. Through public service, Laurier said, Canada’s young people would have to face these challenges themselves. And to do so, he left them the following words of advice.

“Let your aim and purpose, in good report or ill, in victory or defeat, be so to live, so to strive, so to serve as to do your part to raise even higher the standard of life and living.”

Just as in Laurier’s time, my generation doesn’t have all the answers. We have done the best we can. The levers of decision making will soon be in your hands. It matters little to me if you are, or end up, a Conservative, Liberal, NDP or Green party supporter. (Although I hope you find conservative principles engaging.) What matters most is when you walk out of this institution on graduation day you get engaged in your community, province and country.

Because your country is a land of opportunity for public service in these challenging times. Canada is looked to as an example of a country that worked during the recent global economic crisis and that has a plan to ensure the country continues to work into the future. Being part of shaping that future will be an amazing, enriching experience for any of you who choose it. Your country needs you. But it also has much to offer you.

So, one more time I will say: Public service is good for you. You may have noticed that I have not said public service is your duty or obligation. Whether it is or it isn’t – the choice is yours. I do recommend it as part of your career because public service will make your life exhilarating and satisfying for, among other things, the reasons I have stated. So, in your life plan as you consider your priorities and define your thoughts, create space for the fascinating world of public service.

I can promise you that if you do, you will be rewarded in ways no other calling grants you. You will become, as Theodore Roosevelt once said after his retirement from politics, one of those who, and I quote: “knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.”

That is the challenge I leave you with.

Answer the call.

You will never regret it.

Do it for your country. Do it for yourself. Do it to make your mother proud.

The cod liver oil is optional.

Thank you for inviting me here today. ✱

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