

BOOK REVIEW

The Rowell-Sirois Commission and The Remaking of Canadian Federalism by Robert Wardhaugh and Barry Ferguson. Vancouver: University of British Columbia Press, 2021. \$45.00 Cdn, hardcover. ISBN 978-0-7768-6501-2. Pages ix-xiii, 1-411.

Reviewed by Robert Marshall¹

“A royal commission is an arm of government and should not be used to destroy the body that created it.” Mackenzie King, 21 December 1937. – Wardhaugh and Ferguson, 2021, p. 115

Authored by Robert Wardhaugh and Barry Ferguson, professors of history respectively at Western University and the University of Manitoba, and with the subtitle “The Remaking of Canadian Federalism”, one might mistakenly think that this might yet again be another ‘dusty old tome’ on the machinations of federal-provincial relations and fiscal federalism. In reality, it is a fascinating investigation into what would turn out to be a pivotal moment in Canadian history that would foreshadow a significant restructuring of the roles of the federal and provincial states in Canada; and the institutional impact of a commission of inquiry during a period of the crisis of monopoly capitalism as the country transitioned from a largely rural agricultural nation to one that was increasingly becoming more urban and industrial.

One might also mistakenly think that when a government appoints a commission of inquiry, they are in fact trying to “shunt off” to the sidelines a problematic issue so as not to address it directly themselves but at the same time appear to be actively engaged with it. And while there are degrees of truth to both these statements, regarding commissions of inquiry they can in fact have a significant impact on public policy, the role of the state, and by extension the lives of Canadians – depending on their findings and recommendations. For example, Gregory Inwood (2004, 2014) has demonstrated this. As many long-standing left nationalists may recall, the fight over a free trade agreement with the United States was presaged by Donald McDonald, who in 1982, while heading The Royal Commission on the Economic Union and Development Prospects for Canada, stated that Canada needed to, in his words, take a ‘leap of faith’ and sign a free trade deal with the United States. For his reflections on this, see Macdonald, 1991.

The implications of the McDonald Commission for the Canadian economy, the labour market, the powers of federal and provincial governments, questions on Canadian sovereignty and other intersections in society were quite significant and have in fact been long lasting. More recently, Canadians have witnessed the 2015 Indian Residential School Truth and Reconciliation Commission chaired by former judge and Senator Murray Sinclair. When the Commission wrote that the impact of residential schools amounted to cultural genocide, a much needed and long delayed conversation emerged about Canada’s historical relationship with the indigenous population.

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When Wardhaugh and Ferguson posed the question why write a book on a Canadian royal commission established in the 1930s, they deftly answered it themselves by noting that “Some commissions...are called at critical junctures in a nation’s or a province’s history to deal with essential matters of state” (pg. 3). So when Canada, alongside the rest of the world, faced a dire economic crisis in the 1920s and 1930s, alongside an environmental crisis and the threat of municipal and provincial bankruptcy, the federal government of Mackenzie King faced growing calls to take immediate action by establishing an inquiry into the financial arrangements and constitutional powers that were embedded in the 1867 British North American Act.

The Act not only established the broad perimeters of federal-provincial relations, it divided revenue raising and spending powers between levels of government. And, as any student of the Canadian political regime should know, it assigned to the federal government significant taxing powers while at the same time assigning to the provinces the responsibility of delivering social and relief programmes. The needs of the 20th century were not being met by a constitution created in the 19th century. When faced with these dual crises, federalism, as shaped by the 1867 Constitution, failed ordinary Canadians.

The constitutional division of powers had been subject to debate and dissent almost as soon as the ink on the 1867 BNA Act itself was drying, as evidenced by the provincial rights movement of the 1880s led by the Premiers of Ontario and Quebec, Oliver Mowat and Honoré Mercier respectively; the impact of decisions made by the Judicial Committee of the Privy Council based in London England; and the lack of a constitutional amending formula. Despite all of this, no significant steps had been taken to redress multiple grievances. Facing a reluctant federal government embodied by the cautiousness of Liberal Prime Minister Mackenzie King (whom the authors refer to as ‘crafty’), the maritime and prairie provinces, in particular, pushed hard for the federal government to take concrete steps to correct the fiscal imbalance by establishing an inquiry into it.

Building on findings from earlier federal and provincial commissions which looked at a diverse range of issues – from maritime freight rates to national finance – and reports generated by the newly minted Bank of Canada, it was only after powerful senior federal civil servant O.D. Skelton conveyed to the Prime Minister that “the disintegration of Canada is proceeding fast” (pg.5) did King grasp the seriousness of what was being demanded and the federal government succumbed to the pressure and appointed a Royal Commission on 14 August 1937 [P.C. 1908].

At the heart of the book is a detailed examination of the Commission’s formation, operation and recommendations. Led by Ontario’s chief justice Newton Rowell and Quebec notary Joseph Sirois (a replacement for Supreme Court of Canada justice Thibaudeau Rinfret, who fell ill before the Commission got underway), it also included the influential editor of the Winnipeg Free Press, J. W. Dafoe, as well as the University of British Columbia’s Henry Angus and Dalhousie University’s Robert MacKay. The later two’s presence would guarantee that the social sciences would play a key role by providing reinterpretations of Canadian economic and political history. The Commission also included future Prime Minister Louis St. Laurent who was hired as the Commission’s French-language lawyer.

The authors draw upon archival materials and evidence including all the relevant documents from the Commission itself which included four hundred written presentations and over nine thousand pages of transcripts, background notes and personal observations from key federal civil servants, briefings prepared by the provincial governments and other witnesses, excerpts from Mackenzie King's diary, the private correspondence of Commissioners and staff, alongside secondary literature. At times dotted with gossip little tidbits – an exiled former German Chancellor Heinrich Brüning teaching at Harvard University was the only witness allowed to smoke during his presentation; one member of the Commission called Halifax's main thoroughfare "shoddy"; King noting in his diary that he wished that Ontario Premier Mitch Hepburn were dead ("I don't often wish that a man should pass away, but I believe that it would be the most fortunate thing that could happen at this time," pg. 235) - the authors construct an interesting and insightful description of Rowell-Sirois' work.

The Commission was working not only against the backdrop of a global economic crisis, but also against an approaching war in Europe; and significantly, a 'radical' rethinking of traditional monetary policy (the Bank of England view which was based on a belief of 'careful budgeting and managing expenditures'); as well as the impact of new ideas generated by individuals such as the Director of Social Research at McGill University Leonard Marsh and economists such as John Maynard Keynes and Gunnar Myrdal. The old view of succumbing to the vagaries of the marketplace were slowly being challenged by a new approach to economic thinking the full impacts of which would be delayed, and yet at the same time compelled forward, by the Second World War. Publishing their final 3 volume report in 1940 with numerous background research studies, the Commission recommended, amongst other things, the creation of equalization payments as well as an increased federal responsibility for unemployment insurance and public pensions.

The Commissioners avoided calling for formal constitutional change, instead proposing that the federal and provincial governments engage in voluntary agreements which would delegate or jointly administer functions. A January 1941 dominion-provincial conference on the Commission's proposals would dissolve into acrimony and abandonment, much to Prime Minister King's relief as the authors noted. In the short run, the Report would lead to a Constitutional amendment, enacted in 1940, which transferred jurisdiction over unemployment insurance from the provinces to the federal government. (s.91, 2A). But the longer-term impact would be felt over the next few decades as a welfare state would be slowly constructed during a period of co-operative federalism. Equalization would become a key stone of contemporary fiscal federalism, and a series of funding agreements, such as The Canada Assistance Plan, would be reached with the provinces.

Indeed, it would not be inaccurate to suggest that the Commission's report would serve as a 'touchstone' for the restructuring of federal and provincial governments; and not only the very nature of federalism itself but the purpose of the contemporary state. As the author's suggested, "...Rowell-Sirois was the 'culmination of a new liberalism' which embedded a 'positive' role for the state in building infrastructure and establishing social insurance programs...." (pg. 264). And, noting its lasting impact "...it served as a set of principals and a source of policy ideas about federalism that would define an era and guide a generation" (pg. 267).

As concluded by the authors in the final paragraph in the book: “The commissioners articulated a vision of federalism far removed from the nineteenth-century model they were called upon to renovate and they rose above the conventional views of their time. Their original instructions were to tinker with the federation, the machinery of government, but their recommendations were nothing less than to remake Canadian federalism into a system designed to provide the “maximum welfare” of all its citizens” (pg. 303).

Books will find different audiences depending on their readers’ own interests. As a political economist with a deep and abiding interest in state theorization, I was most interested in learning how the Commission, alongside its findings and recommendations, influenced the restructuring of the state in Canada. While not overtly evident, I thought sub-textually that the book was a study of institutional state theorization and, as such, it may be of interest to students of state theory. Embedded in the concept of path dependency, institutionalism has struggled with explaining how in fact change occurs and not defaulting to an argument of institutional rigidity. Perhaps less overt, there is a quality of exploring historical and discursive institutionalism throughout the book that I found appealing. For me, then, the strength of it in this regard is that a reasoned and thoughtful explanation was proffered on the economic, historical and political forces that contributed to the evolution of the foundational institution of federalism in Canada.

Finally, this book also reminds us that the very real challenge of governing Canada is not new; and that struggles between federal and provincial governments have long been a part of our history and remain so as United Conservative Party leadership hopeful Daniella Smith’s proposed Sovereignty Act demonstrates. The legislation would give the Albertan government the power to ignore federal laws and court rulings deemed not in the province’s interests. *plus ça change, plus c'est la même chose*.

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