

## PANEL REVIEW

THE CREATION OF A ROYAL COMMISSION on *Renewing and Strengthening Our Place in Canada* was announced by the Liberal government led by Roger Grimes in March 2002. Its members — Vic Young (chair), Sister Elizabeth Davis, and Judge James Igloliorte — were appointed the following month, and instructed to report by 30 June 2003. The text of the report, as well as the research studies, can be found at [www.gov.nl.ca/royalcomm](http://www.gov.nl.ca/royalcomm).

# The Vanishing Report: A Political Analysis of the Newfoundland and Labrador Royal Commission on *Renewing and Strengthening Our Place in Canada*

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ROYAL COMMISSIONS are usually established to inquire into matters which have risen to the top of the policy agenda. Frequently, such matters have become the subject of significant public debate or controversy. Less frequently, royal commissions are initiated by internal bureaucratic recognition of a serious policy deficiency, an assessment which has come to be shared by the government of the day. In some in-

stances, royal commissions are set up by governments as a delaying tactic to avoid taking a decision on a politically hot issue, while simultaneously appearing to be dealing with it.

When the Liberal government of Roger Grimes announced in the March 19, 2002, Throne Speech that a Royal Commission on Renewing and Strengthening Our Place in Canada would be established, many observers were taken by surprise. Why now? What was the pressing need that would necessitate such a royal commission? Had it been commissioned three years earlier, when the province was celebrating its 50th anniversary, its timing might have been more appropriate — a timely review of the province's first half-century in Confederation. The premier's statement that "we want to try to renew and strengthen our place in Canada, so that, in fact, we can be seen as we view ourselves — as being contributors to the Canadian fabric rather than recipients of some kind of hand-out mentality," added little to the perceived need for a \$3 million royal commission.<sup>1</sup> Since no clear reasons were provided in the Throne Speech beyond the longstanding litany of federal inadequacies relating to health care, highways, foreign overfishing, and provincial retention of offshore resource revenue, skeptics wondered if the Grimes government might be planning to use the Commission's report as the basis for an election call.

Such skepticism was aided by a widespread perception that the governing Liberal party was suffering from serious internal problems which originated with the abrupt departure of former premier Brian Tobin, and were deepened by the divisions which emanated from the subsequent leadership race and convention.<sup>2</sup> To add to the suspicion, shortly after the Commissioners were appointed in April 2002, the government launched two extensive advertising campaigns: the first to announce details of an agreement in principle with INCO to develop the Voisey's Bay mineral deposits; and the second to proclaim that "good things are happening" in the province. With the government sending conflicting messages to the public, it was not surprising that skepticism existed about the Royal Commission's role and purpose; and the requirement to submit the final report by June 30, 2003, added to the suspicion that the government's real purpose was to manufacture a major platform plank for an expected fall election, reminiscent of former premier Brian Peckford's 1982 "mandate to negotiate."<sup>3</sup>

According to the Throne Speech, the Commission's mandate was to "involve the people of the province in seeking a broad consensus on a vision to position ourselves in the global community, to renew our relationship with Canada, to complete a critical analysis of our strengths and weaknesses and to provide direction for the decade to come." While it is not clear that either a broad consensus or a specific vision emanated from the report, the Commission cannot be faulted for not trying. While the total number of people who attended the Commission's hearings was not overly large at 1,400, ample opportunity was provided for public input at 25 hearings in the province and one each in Fort McMurray and Toronto. The Commission also undertook specific meetings with secondary and post-secondary students,

women's groups, businesses, three "dialogues" with citizens, and eight "roundtables."<sup>4</sup> In addition, the Commission received 250 written submissions.

The report itself is slick and artistically pleasing. Printed on creamy heavy stock paper, it is profusely illustrated with reproductions of photographs, illustrations, paintings, and collages. Depending on the expectations of the reader, however, the content may leave something to be desired. Anyone expecting a scathing denunciation of the federal government and a call to separation would be disappointed. However, there is sufficient ammunition in the report for Roger Grimes to have used it as the central theme of an election campaign platform. Why he chose not to do so remains unclear.

Having said that, there are elements of naïveté in the report that may well be reflective of the Commissioners' lack of political experience. For example, the call for a "new relationship" between the province and the Government of Canada, which would be a collaborative, non-partisan, respectful, transparent, flexible, creative and true partnership, clearly suggests a flawed understanding of both the nature of Canadian federalism and the realities of the political process (7). A noble dream, to be sure, but lacking in political reality. Even the recently created Council of the Federation is unlikely to provide the new partnership called for by the Commission.

While rejecting a militant approach to correcting the usual list of complaints about the province's experience in Confederation, the report's call for a "new partnership" and a "pathway to renewal" reads like a cross between Herbert Pottle's lament about J.R. Smallwood's failure to create a true democracy after Confederation, and Clyde Wells's Strategic Economic Plan.<sup>5</sup> At first glance, there is little in the seven steps on the pathway to renewal (9) that has not already been tried by one or several of the post-Confederation provincial governments. For example, most provincial governments have at least paid lip service to "prudent management" of their finances, help for rural areas, protection of the fishery (and, in recent years, dealing with the collapse of the Northern Cod stock), readjustment of equalization and other federal transfers, a better deal on offshore resource revenue, and greater economic benefits from the Churchill River hydroelectric developments. Even the suggestions for "improved federal institutions" and "alliances with other provinces" have been addressed by many of our past premiers.

Digging a little deeper, however, reveals the report's many strengths. The section dealing with the early years of Confederation and Newfoundlanders' hopes for the future is a sobering reminder of how Smallwood's extravagant promises led to unrealistic expectations about the long-term benefits of joining Canada. As the report acknowledges, Newfoundlanders and Labradorians realized many benefits from Confederation, especially in the early years, with improved social services and living standards, but the crucial expectation of becoming a full partner (as opposed to a constitutionally-equal province) in Canada has remained elusive.

The report presents the familiar statistics delineating the continuing disparities between provincial and national economic conditions, using such measures as unemployment and labour force participation rates, earned and personal income per capita, and GDP per capita. While much attention has been paid in the national media to Newfoundland and Labrador's recent leadership in GDP growth, the report reminds readers that not only does the provincial level of GDP per capita remain well below the national average, but because most of the growth is related to higher oil production and prices, much of the revenue related to this growth goes outside the province. Further, while out-migration has positively affected the rate of GDP growth, it has not significantly moved the unemployment rate toward national levels.

In trying to assess the advantages and disadvantages which accrued to the Dominion of Newfoundland upon its confederation with Canada, the Royal Commission struggled with the thorny issue of compiling a "balance sheet." Considering only finances received from and given to the federal government, the province is clearly the winner — the most recent figures being an annual net benefit of \$2.6 billion (31). However, the report argues that a more comprehensive analysis would include many economically important, but hard to quantify, factors such as those related to the province's location. Wisely, the Commission concluded that producing a balance sheet which purports to demonstrate whether the province is a net loser or gainer from Confederation is "not constructive" and "should be avoided." Regardless of how the financial components were measured or what the net balance was, it would do nothing to dispel the province's financial dependency on the federal government, or the psychological frustration many citizens feel at being identified by mainland media as "takers" in Confederation (33).

The blight of out-migration is dealt with by the Royal Commission in a sobering chapter. The ten percent loss of the province's population between 1991 and 2001 is remarkable enough; but the fact that many of those leaving are recent university graduates and young families in search of meaningful employment is particularly discouraging for the province's future. As a member of the late-1990s provincial Task Force on Municipal Regionalization, I was struck by the number of dying rural communities we visited — a devastated local economy, abandoned houses, uncollectible taxes, and an aging population did not bode well for the future of municipal government in the rural parts of the province.<sup>6</sup> The report notes this concern, and the earlier failure of provincial policy to deal adequately with rural areas, especially in terms of limiting entry into the fishing industry, largely due to political sensitivity deriving from earlier resettlement programs (39).

One of the strengths of the report is its call for "an informed, frank and honest public dialogue on the future of rural Newfoundland and Labrador" as part of the development of a "rural strategy" (44). All too typically, successive provincial governments have shied away from such a fundamental discussion, preferring instead to pour money indiscriminately into various ill-considered and ultimately unsuccess-

cessful projects. Of particular importance is the report's caution against government attempting to determine where economic development should take place; instead, the report urges government "to embrace economic opportunities wherever they occur" (44).

Another strong chapter in the report concerns the financial situation. It will come as no surprise to anyone familiar with the province's finances that Newfoundland and Labrador has the country's highest provincial debt per capita, the highest debt to GDP ratio, and the lowest overall credit rating. The Royal Commission recognized that raising taxes would be counter-productive — especially at a time when other provinces are moving to lower tax rates. The Commission estimated that a continuation of current spending and existing revenue would result in an unsustainable "go-forward deficit of \$250 to \$500 million" (63).

The new Conservative premier, Danny Williams, confirmed this during a January 2004 province-wide television address which outlined the economic consequences of an independent financial audit showing a total deficit for 2003-04 of \$827.5 million. Interestingly, during this speech he put the federal government on notice that the province will be seeking 100 percent of the royalty revenue from offshore oil resources for a period of ten years. Although Williams did not make reference to the Royal Commission in this context, concern over the split in offshore resource revenue between the federal and provincial governments occupies a major section of the report.

Seeking to correct the erroneous but widely-held belief that offshore resource revenue will quickly bring Newfoundland and Labrador into the ranks of the "have" provinces,<sup>7</sup> the report provides an exhaustive analysis of government revenues from offshore oil. While revenue from the existing projects is expected to rise over the next few years, reaching a peak in 2011, the analysis clearly shows that it is the federal, not the provincial, government which will receive most of the revenue. For example, out of the total projected revenues for 2010 of \$1.15 billion, the federal government will receive \$900 million while the province will receive only \$250 million (121). How can this be possible when the terms of the 1985 Atlantic Accord clearly state that the province is to be the "principle beneficiary" of the offshore revenue?

The answer hinges on the treatment of equalization payments. At the time the Atlantic Accord was signed, equalization-offset provisions were included to ensure that the province would not be penalized by a dollar-for-dollar drop in equalization payments during the early years of offshore oil production. Within the equalization program itself, there is a "generic" option which allows a province to have only 70 percent of its offshore revenue included in the measurement of its fiscal capacity rather than 100 percent. Each year, the province must choose in advance which of the two options it wishes to have apply. Regardless of which option is chosen, and it should be noted that the offset provision expires in 2011 and the generic provision is not guaranteed beyond 2004, the Royal Commission concluded that "the net

amount of revenue that the provincial government retains will pale in significance when compared with the combined impact of the federal government's savings from reduced equalization payments and its federal corporate income tax" derived from offshore activity (120-121).

Considering that offshore resource development revenue is one of the few bright spots in the province's economic future, and that the optimistic expectations of new offshore oil discoveries and developments at the time that the Atlantic Accord was signed have not been realized, the Royal Commission strongly recommended that the Accord be revised to allow the province to be the principal beneficiary as originally intended.

Closely related to concerns about equity with respect to offshore resources are the actual and potential hydroelectric developments of the Churchill River. The report briefly summarizes the economically disastrous Churchill Falls hydroelectric development, which was built during the Smallwood years and allows Québec to reap annual windfall profits of some \$850 million. Newfoundland's attempts to redress this inequitable situation, and the federal government's continuing failure to facilitate alternative arrangements which would benefit Newfoundland and Labrador, led the Royal Commission to question "whether or not fairness and equity exist in the Canadian family" (123). Clearly, at the present time, and in regard to the Upper Churchill, the Commission's answer is a resounding "no." However, the Commission argues that the development of a second major hydroelectric project at Gull Island on the Lower Churchill provides the opportunity for the federal government to demonstrate its willingness to be a partner with the province in the spirit of section 36(1)(b) of the Constitution Act, 1982. The alternative, according to the Commission, is to either "(i) develop the Lower Churchill on Quebec's terms, or (ii) let the water flow to the sea" (124).

In dealing with another major component of the province's economy, the Royal Commission also lays much of the blame for the failure of the fisheries on the federal government. Although recognizing the role of the province and the industry in overcapitalization, and the political impetus to create and preserve jobs, the report singles out the federal government as having the ultimate responsibility for both the collapse of the fishery and for rebuilding the stocks (105). In calling for a federal/provincial "Action Team" to develop a plan within six months for rebuilding the groundfish stocks, the Commission also draws attention to the need for action to preserve the snow crab and shrimp stocks so that they do not suffer the same fate as the Northern Cod. Regrettably, no such "Action Team" has been established and there is no indication that new or innovative commitments for scientific research on the fisheries are being considered.

In fact, the reverse appears to be the case with regard to the serious problem of foreign overfishing. The report outlines the failure of the federal government to "effectively address overfishing within the NAFO framework" and notes that "NAFO has proven itself an ineffective mechanism to properly manage straddling stocks

outside the 200-mile limit" (108). The federal government's recent decision to replace human fisheries observers with computerized data collection on foreign fishing vessels appears to fly in the face of the report's call for Canada to consider "strong unilateral action ... to conserve and protect critical straddling stocks" (109).<sup>8</sup>

While the report is critical of the provincial government's management of fish processing licenses, it is even more critical of the federal government's failure to recognize the "unique needs" of Newfoundland and Labrador. In reviewing the divided constitutional jurisdiction on the fisheries, and the federal government's insistence on an Atlantic-wide fisheries policy which reduces the provincial government to an "advocacy role," the report concludes that "It is no way to run a fishery. It is no way to run a federation" (110). Following in the footsteps of many others who have called for greater integration and cooperation between the federal and provincial governments in dealing with the fisheries, the report calls for joint management mechanisms to set the Total Allowable Catch limits and issue harvesting and processing licenses. The Commission recommends a Joint Management Fisheries Board, similar in structure to the Canada-Newfoundland Offshore Petroleum Board (112).

The Commission's proposed joint management structure for the fisheries would not require any changes to the Terms of Union, and this is in keeping with other recommendations in the report. Correctly noting that "the primary purpose and effect of the Terms of Union was, and has been, to provide a constitutional place for Newfoundland and Labrador that was not materially different from that of the other provinces," the report concludes that "there is little within the Terms of Union that can be called upon in support of a strategy to renew and strengthen our place in Canada" (71). Having said that, however, the report recognizes that the province has "faced significant constitutional obstacles" in "attempting to realize its economic potential" (71). The solution, however, is not to seek constitutional changes, but to develop new and innovative mechanisms within the existing constitutional framework.<sup>9</sup>

What has the Royal Commission accomplished? First, the Commission dealt openly with a pervasive underlying minority sentiment favouring separation from Canada. In rejecting this view, the Commission found that only 12 percent of respondents to a public opinion poll supported separation. Second, and somewhat contradictorily, the report could provide the rationale for a resurgence of Newfoundland nationalism and separatist support, if the Commission's recommendations are not realized. The report argues that at the time of Confederation, Newfoundlanders expected that in addition to becoming "full citizens" of Canada, they would "share the living standards enjoyed by all Canadians, and that their province would have the financial resources to support these standards." It is, of course, not clear what these sentiments mean. A Newfoundlander is as much a "full citizen" of Canada as is an Ontarian or a British Columbian. Is the use of the term

“full citizen” meant to imply that Newfoundlanders are something less than “full citizens” because their standard of living is generally below the rest of the country? That would certainly seem to be implied by the next section of the report about sharing the living standards. Again, Newfoundlanders “share” the living standards of Canada, but is there a hidden implication here that we were supposed to share equally? That Canada had an obligation to bring the standard of living up to the Canadian average by providing the necessary financial resources? If this is the case, then the citizens of Newfoundland were either incredibly naïve or completely misled. Alternatively, the Commissioners’ interpretation of their expectations is seriously flawed.

As the only province that was an independent country before becoming part of Canada, Newfoundland and Labrador is unique in the Canadian federation. It was only with the smallest of margins that the citizens of Newfoundland voted in 1948 to become a Canadian province rather than returning to self-government. The Royal Commission report provides a useful overview of the province’s experience in Confederation and provides compelling evidence that changes in the relationship are necessary, especially in financial arrangements.

The report was delivered to Premier Roger Grimes with much fanfare on June 30, 2003. Perhaps anticipating a more hard-hitting document, the 2003 Throne Speech promised to establish a “People’s Congress” within 60 days of receiving the report.<sup>10</sup> The government’s failure to convene this “Congress,” or even to set in motion any preparation for it, indicated that the Grimes government had either rethought the desirability of further discussion on the matters covered by the report, or had dropped the report from active policy consideration. Although the report resurfaced in summary as the final chapter of the Liberal campaign platform, entitled “A Pathway to Renewal,” with “commitments” and “action plans” to implement many of the report’s most important recommendations,<sup>11</sup> the defeat of the Liberal government in the October 21, 2003, provincial election brought an end to whatever degree of reality those promises might have held.

The report was not directly mentioned in the Progressive Conservative campaign literature, although a number of the PC promises bore a close resemblance to its recommendations. For example, much of the chapter entitled “Fairness and Equity in Canada” dealt with the fishery, offshore oil revenue, and hydroelectric development on the Churchill River reflected the report’s recommendations.<sup>12</sup> Further, the Conservative government’s promise to establish an office of federal-provincial relations in Ottawa to focus on changes in offshore ownership and management, equalization reform, development of the Lower Churchill, joint fisheries management, and custodial management, among other items, is very much in line with the report.<sup>13</sup>

While it is certainly possible that the authors of the Conservative platform came up with these ideas independently, especially in light of the observations of some political observers that the report was just a rehash of well-known issues and



solutions, it is also possible that at least some of the report's findings found their way into the platform of the party which will govern the province for at least the next four years. And while it is unlikely that any further public discussion of the report's findings and recommendations will occur, and certainly not in the promised "Citizen's Congress," it is quite possible that parts of the report will influence the development and implementation of public policy.

The report was received with a resounding silence in Ottawa, and the reader is left wondering what will happen if there is no move by the federal government to address the deficiencies highlighted in the report. Although the report clearly indicates that the status quo must change, it also rejects the ultimate threat of separation which has worked so well for Québec. Will the Williams government's plan to open an office in Ottawa be sufficient to persuade the federal government to move toward a renewed partnership, and toward changes in the relationship between the province and the federal government? Probably not, but the fact that the new premier has himself taken responsibility for intergovernmental affairs indicates the importance that he places on reaching an accommodation with the federal government on the pressing issues which the report delineates. This move, interestingly, seems to follow the recommendation that "the building of a productive relationship with the federal government and the other provinces and territories requires a strong team led by the Premier ..." (150).

While the reasons for the Royal Commission's establishment may be murky, and the government which initiated it was defeated in the last election, it is to be hoped that the report does not end up gathering dust on a shelf in Confederation Building. It does a masterful job of bringing together a wealth of solid research on the serious economic and social problems facing the province, and clearly sets out the steps which must be taken in changing its relationship with the federal government if the province is to be able to reach its potential as a full partner in Confederation.

## References

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*The Telegram* (St. John's), 20 March 2002.

## Notes

<sup>1</sup>*The Telegram* (St. John's), March 20, 2002.

<sup>2</sup>Tobin, who was widely perceived to have ambitions to run for the leadership of the federal Liberal party as soon as Prime Minister Jean Chretien announced his retirement, had promised during the February 9, 1999, election campaign to complete his full term as premier of Newfoundland and Labrador — see Douglas M. Letto, *Run: Brian Tobin's Quest for a Second Term* (St. John's: Blue Hill Publishing, 1999), pp. 160-161. His resignation as premier and immediate appointment to the federal cabinet on October 16, 2000, signaled the beginning of a bitterly fought leadership race which was won by Roger Grimes on February 3, 2001, by a scant 14 votes. His two main leadership rivals subsequently left provincial politics — Fisheries Minister John Efford to pursue his political career at the federal level and Finance Minister Paul Dicks to return to private life as a lawyer.

<sup>3</sup>Frustrated by his government's failure to reach a satisfactory agreement with the federal government on the ownership and development of the offshore Hibernia oil and gas resources, Peckford sought to strengthen his negotiating position by calling an early election with the central theme of "a mandate to negotiate." Although he won the election with a record high percentage of popular vote for the Conservative party, the Trudeau government did not change its negotiating position.

<sup>4</sup>Details of the consultation process are set out in Appendix B of the report.

<sup>5</sup>Herbert L. Pottle, *Newfoundland Dawn Without Light: Politics, Power & the People in the Smallwood Era* (St. John's: Breakwater, 1979); Newfoundland and Labrador, *Challenge & Change: A Strategic Economic Plan for Newfoundland and Labrador* (St. John's: Queen's Printer, 1992).

<sup>6</sup>Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Final Report, Task Force on Municipal Regionalization* (Queen's Printer, 1997).

<sup>7</sup>The report quotes former Prime Minister Jean Chrétien as predicting that Newfoundland "might become a 'have-province' within five years of first oil from Hibernia" (121).

<sup>8</sup>"Black boxes could replace observers on fishing boats," CBC.ca website, [http://cbc.ca/cgi-bin/templates/print.cgi?/2004/01/12/fishery\\_observers040112](http://cbc.ca/cgi-bin/templates/print.cgi?/2004/01/12/fishery_observers040112), accessed January 12, 2004.

<sup>9</sup>The wisdom of this approach can be seen in the lackluster response which former premier Roger Grimes encountered during his trip across Canada in spring 2003 in an attempt to persuade his fellow premiers to support an amendment to the Terms of Union to enshrine joint management of the fishery. For an example of the response see "Chretien rejects call for talks on Constitution," *National Post*, May 10, 2003.

<sup>10</sup><sup>41</sup>In recognition of the importance of this initiative to the people of the province, my Government will organize a People's Congress within 60 days of receiving the Commission's report. We will bring together elected federal and provincial officials from all parties,

municipal leaders, Aboriginal leaders, representatives of the social, business and labour sectors, with representation from women, youth and seniors. The intended outcome will be an action plan flowing from the recommendations of the Commission report.” Speech from the Throne, March 19, 2003.

<sup>11</sup>Liberal Party of Newfoundland and Labrador, *Take a Closer Look: Platform of the Liberal Party of Newfoundland and Labrador*, Liberal Party of Newfoundland and Labrador, 2003, pp. 106-109.

<sup>12</sup>Progressive Conservative Party of Newfoundland and Labrador, *Real Leadership, the New Approach: Our Blueprint for the Future*, PC Party of Newfoundland and Labrador, 2003, pp. 63-65.

<sup>13</sup>*Ibid.*, p. 65.