

**Federalism and Political Change:**  
Germany and Canada in Historical-Institutionalist Perspective

Jörg Broschek, University of Augsburg

joerg.broschek@phil.uni-augsburg.de

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## **Federalism and Political Change: Germany and Canada in Historical-Institutionalist Perspective**

This paper addresses the questions why and how federal systems exhibit different trajectories by picking up conceptual advancements which have been put forth in historical institutionalist theory. As the recent theoretical debate on political change has shown, it seems necessary to move beyond the narrow focus on path dependence in order to enhance our understanding of how history can influence present and future political developments in various forms. Two considerations seem to be particularly well suited for an analysis of federalism and change: First, the concept of frictions allows for the identification of endogenous sources of political change and can be considered as a valuable analytical alternative to the exogenous shock-argument. Second, the degree of rigidity inherent to political institutions influences how entrepreneurial agents can employ power resources in order to challenge or defend an existing historical outcome.

The first parts of the paper (I and II) are dedicated to the development of a framework for the analysis of federalism and political change informed by historical institutionalism. It is suggested that the degree of institutional rigidity is largely dependent on whether federations do resemble properties of either the interstate or the intrastate model of federalism. Each model furnishes federal institutions with varying capacities to translate frictions into political change.

Part III demonstrates that the structural institutional arrangement in both federations has emerged in a highly path dependent way. Part IV highlights, however, that path dependence falls short when it comes to explain the procedural dynamic of federalism in Canada. Against the backdrop of German experience it is examined how interstate federalism in Canada has promoted multifinality and contingency, thereby exhibiting cyclical sequences in which early events and outcomes are often counteracted rather than amplified. Therefore, the paper takes a look at three examples from a comparative perspective in order to show how frictions are translated into change: the introduction of medical insurance in the 1960s, Ottawa's turn to fiscal restraint in 1995 and the attempts to reform federalism in Germany since the mid 1990s.

### **I. History Dependence and Political Change**

The model of path dependence has emerged as the most prominent analytical tool within historical institutionalist research. On a very general level, this model rests upon three assumptions. First, it argues that only small, contingent and early events can trigger a path dependent sequence. Second, it assumes that increasing returns or positive feedback are the basic mechanisms of reproduction which explain institutional stability. Third, it relies on exogenous shocks to explain why mechanisms of reproduction might erode and give way to a new critical juncture.

The recent debate, however, seems to have attempted to move conceptionally beyond the sole focus on this narrow approach of path dependence. It was indicated, for example, that accounting for endogenously induced political change is a central problem inherent to this model (Harty, 2005). Moreover, it is debatable whether the focus on the narrow model of path dependence has prevented research from identifying other types of history dependence. History matters, but the way the past causally shapes political processes can take various forms (Howlett and Rayner, 2006; Page, 2006). Two modifications that have been advanced in order to address these limitations seem to be particularly promising because they enhance the scope of analytical tools within historical institutionalist research.

## Frictions

The first modification addresses what Siobhán Harty (2005: 53) calls the coherence critique. The narrow conception of path dependence does not provide a convincing answer how to explain for endogenously generated political change. By relying on exogenous shocks, it instead shifts this theoretical problem to explanatory variables lying outside the analytical framework itself. There is scope, however, to revise the narrow model of path dependence by extending the range of mechanisms of reproduction and incorporating mechanisms of change. In his study on American civil rights policy, Robert Lieberman develops a valuable account for endogenously induced political change. Lieberman views politics as a multiple political order, consisting of institutional and ideational components. For Lieberman neither are these components necessarily equilibrated, nor do they usually connect in an internally coherent way (Lieberman, 2002: 703). Rather, it appears more adequate to assume that they permanently create frictions, what he conceives of as a mismatch between the institutional and ideational patterns entailed within a political order. According to Lieberman, any historical configuration is likely to impose “[...] contradictory and multidirectional imperatives and opportunities” on political actors (Lieberman, 2002: 702). His central hypothesis is that whenever frictions become more prevalent, the probability of significant political change increases correspondingly.

These considerations can be integrated into the basic model of path dependence sketched above. Frictions, then, are nothing but the simultaneous prevalence of positive and negative feedbacks that various systemic-level actors are subject to within a given political order. James Mahoney (2000: 517) distinguishes four different types of mechanisms of reproduction as well as corresponding mechanisms of change: utilitarian, functional, power-based and legitimation-based mechanisms. It is suggested here that for the purpose of investigating the stability and transformation of political institutions, two of the four mechanisms identified by Mahoney appear to be of particular importance (Table 1).

Table 1  
Mechanisms of Reproduction and Change

	Feedback mechanism	
	Positive	Negative
Power-based	Institution is reproduced because it is supported by an elite group of actors	Reproduction is threatened due to weakening of elites and strengthening of subordinate group
Legitimation-based	Institution is reproduced because actors believe it is morally just or appropriate	Reproduction is threatened due to changes in the value or subjective beliefs of actors

Source: adapted from Mahoney 2000: 517 (substantially modified)

Even though it is still controversial what types of mechanisms are exactly operative in the case of political institutions, from a Weberian viewpoint it appears that for their reproduction or transformation, power and legitimation are of particular importance. Because they significantly shape and structure the relationship of collective actors, groups and individuals by redistributing material and non-material power resources, political institutions rely on legitimizing ideas and social constructs which provide for their stabilization.

## *Institutional Rigidity and Types of History Dependence*

New institutionalism rests on the important assumption that institutions are considered as both, constraining and enabling entities (Immergut, 1998). Tsebelis's (2002) veto player theory is a prominent example for how the rational choice stream has shown a clear awareness to this crucial assumption. In contrast, historical institutionalist research frequently appears to conceive institutions as equally constraining without considering varying degrees of rigidity. From a historical institutionalist perspective, a possible starting point for being more sensitive to the issue of institutional rigidity is to understand the formation of institutions as a means of reducing contingencies. It is important to mention that, unlike the literature on path dependence usually suggests, the notion of contingency is not necessarily restricted to small and accidental events. Moreover, it comprises the idea of an institutionally structured (but not determined) scope of historical possibilities and variations that have not been realized yet, but which are principally realizable (Luhmann, 1976: 295). Accordingly, contingency can either refer to random events, which are not causally connected to an institutional order (event contingency), or to a temporal state with a long time horizon, which is significantly shaped through institutional rigidity (structural contingency). Due to varying degrees of rigidity, institutional capacities for suppressing contingencies within the historical process can differ considerably. In case of institutions that exhibit constraining rather than enabling elements, the significance of contingencies is minimized to a considerable amount. Therefore, they will likely yield a type of path dependence in accordance with the narrow model sketched above. In contrast, institutional arrangements that emphasize enabling rather than constraining elements are more likely to allow for contingent developments to play out. Depending on the prevalence of frictions, a historical sequence then can be subject to less stable types of history dependence like cyclical or balancing processes. Both are examples for what Scott Page (2006: 89; 97) has called *phat*-dependent processes. Here, the outcome of a sequence is history dependent, but the ordering of events itself does not matter as in the case of path dependence.<sup>1</sup> In the case of cyclical processes, a sequence does not exhibit one equilibrated stable long path, but oscillates between two or more alternatives (Bennett and Elman, 2006: 258). A related, but more stable historical dynamic underlies balancing processes. Unlike the former, balancing processes do not generate multiple, oscillating equilibria, but develop into one equilibrated outcome in the long run (Page, 2006: 99). Rather than being amplified, however, early events in balancing processes are counteracted due to negative feedback: "The dynamic here is not the amplification of what comes before but reactions against it" (Bennett and Elman, 2006: 258).

## **II. Federalism and Political Change**

How can a historical institutionalist framework enhance our understanding about federalism and political change? It seems useful to me that the distinction between inter- and intrastate federalism, which was given particular prominence in Canada by Donald Smiley (1971), Alan Cairns (1979) and Ronald Watts (Smiley and Watts, 1985), is a promising starting point in this endeavor.<sup>2</sup> First, this distinction makes it possible to specify how frictions are generated

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<sup>1</sup> "A process is **phat-dependent** if the outcome in any period depends on the set of outcomes and opportunities that arose in a history but not upon their order" (Page's emphasis, 2006: 97).

<sup>2</sup> Donald Smiley (1971) was first in applying Karl Loewenstein's distinction between inter- and intraorgan control in order to construct a typology of federalism. Yet outside Canada and Germany (Schultze, 1990) the advantages of this typology have been almost totally neglected in the field of comparative federalism. An important recent exception is Obinger et al. (2005).

within federal systems. Second, it allows for contrasting federal systems along differing degrees of institutional rigidity.

The idea to differentiate between interstate and intrastate federalism analytically rests on Karl Loewenstein's observation that

[t]he techniques of control are structurally of two kinds. If the control devices operate *within* the organization of an individual power holder, they are spoken of as *intra-organ* controls. If, however, they operate between the several interacting power holders, they are called *interorgan* controls (Loewenstein's emphasis, 1957: 164).

Both types of federalism can be ascribed to competing interpretations of Montesquieu's theory of separation of powers (Schultze, 1990: 479). Accordingly, intrastate federalism presupposes an antecedent unity within which the constituent units and the federal tier are jointly exercising power. It reflects Montesquieu's notion of *distribution des pouvoirs* and is rooted historically in the organic-corporatist elements within the Continental European tradition of federalism. In contrast, interstate federalism stresses the idea of *séparation des pouvoirs*. Rather than collaborating within an antecedent unity, constituent units are performing state functions more independently from each other. Instead of creating interdependence and interlocked power sharing, the essence of federalism lies in vertically dividing and subdividing state and society. Reginald Whitaker aptly summarizes this thread of the federal idea in view of the American constitution:

The genius of the American constitution [...] was to banish all notions of sovereignty which were not popular, and then to erect a complex of representative institutions, dividing and sub-dividing jurisdictions and responsibilities, so that the 'people' would be divided against itself, so that each citizen could only represent his interests through voting for a multiplicity of offices in separate jurisdictions. [...] Federalism [...] could be seen not only as a means of dividing the people against itself, and thus reducing the dangers of majoritarianism, but it could also be a means of limiting the dangers of government oppressing the people, by dividing the state against itself (Whitaker 1983: 20f.).

Empirically, federal systems of course exhibit elements of both, intra- and interstate federalism. They combine, as Daniel Elazar (1987: 12) has put it, "shared rule plus self-rule". This crucial distinction, however, allows for the construction of two models of federalism by contrasting them along Lieberman's (2002: 703) three components of a political order: institutions, actors, and what he calls "[...] the ideological and cultural repertoires that organize and legitimate political discourse" (Table 2).

There are two steps in which the interplay of federalism and political change can be modelled from this starting point. The first question is how frictions are generated within each model. The argument here is that there has to be a certain degree of congruence between the three components of a federal regime in order to reinforce its stability due to complementarity effects. For systemic-level actors, the institutional order yields positive feedback because their preference formation as well as the adoption of strategies basically corresponds to the institutional logic it entails. For example, political parties are likely to develop into highly integrated organizations in intrastate arrangements since decision-making is concentrated within federal institutions, whereas capacities for policy-making on the level of constituent units is rather limited. Frictions, therefore, become more prevalent in this model in case of a lack of coherence between the components of a federal regime. If, for example, self-rule as an ideological repertoire gains currency within society, regional political parties are likely to emerge, calling for a transfer of legislative authority from federal institutions to constituent units.

Table 2  
Inter- and Intrastate Federalism

	Model of federalism	
	interstate	intrastate
<i>Institutions</i>	dualistic allocation of political authority	integrated allocation of political authority
<i>Actors:</i>		
a) governmental interaction	unilateralism or cooperation	Joint decision-making
b) parties	low degree of vertical integration	strong degree of vertical integration
<i>Ideas</i>	séparation des pouvoirs/ self-rule	distribution des pouvoirs/ shared rule
<i>Institutional rigidity</i>	low	high
<i>Model promotes</i>	multifinality	equifinality

Since frictions do not automatically yield political change, the second question relates to how these tensions are converted within the institutional arrangement. More specifically: How do federal institutions provide entrepreneurial actors with the resources they need in order to build coalitions of change or to carry out their reform agenda? According to the idea of enforcing collaboration within the federal regime, intrastate federalism integrates political authority, having legislative powers assigned to the federal level, while leaving administrative functions with the constituent units. On the level of intergovernmental relations, this institutional setting creates a system of joint decision-making, enforcing actors from both governmental tiers to reach consensus in case political change is to be pursued. Like in the German case, constituent units can nevertheless be powerful. Because they are incorporated into the process of legislation within federal institutions, however, their influence rests on their power to impede political change rather than on their capacity for autonomous policy variation. This is why intrastate federalism promotes equifinality, that means many different perspectives, ideas and interests have to be accommodated into one possible outcome. For example, in Germany conflicting proposals how to reform the income tax system (flat tax versus progressive rates) or the health care system (universal health insurance versus flat per capita premium) always have to be transformed into one outcome which applies within the federation as a whole.

In contrast, the dualistic allocation of political authority within interstate federalism allows entrepreneurial actors from either governmental tier to act independently since they are provided with important material resources such as the power to legislate, to spend or to levy taxes within their respective jurisdictions. This institutional setting establishes a system of intergovernmental relations that provides actors with two strategic opportunities. They can either negotiate voluntarily, thereby creating a system of cooperative federalism, or, alternatively opt for unilateral action. On the level of public policy, the institutional mechanism of interstate federalism enhances the scope of choices within a political entity considerably, offering exit options whenever consensus cannot be reached. Accordingly, political change can be achieved less costly and is also less contingent upon favourable historical circumstances, as for example the punctuated equilibrium model suggest. As can be illustrated again on the basis of income taxation and welfare state policies, this institutional mechanism fosters multifinality, that means state functions can simultaneously be achieved and maintained in different ways. With the emergence of the Tax on Income Model, more than ever before Canadian citizens are subject to various modes of taxation, thresholds and

brackets. Likewise, Gerard Boychuk's (1998) illuminating study on provincial social assistance regimes has revealed significant variations which have persisted before and after the introduction of the Canada Assistance Plan. Policy divergence with respect to program design and the five regime types identified by Boychuk make a difference which would be unconceivable within a federal framework that promotes equifinality.

### III. Institutional Path Dependencies

Unlike most federations, Canada and Germany do almost prototypically reflect institutional provisions underlying the two models of federalism. Whereas in Canada a dualistic allocation of political authority is the central feature of the federation, *Länder* participation in federal legislation is one of the most preeminent characteristics of German federalism. An instructive survey of institutional arrangements in the six classical federations by Lori Thorlakson (2003) clearly highlights these peculiarities. For example, most jurisdictions are assigned exclusively to each governmental tier in Canada, while this type of constitutional policy allocation is rather insignificant in Germany (Thorlakson, 2003: 8-10).<sup>3</sup> The same holds when it comes to the power of second chambers. The Canadian Senate ranges among the weakest second chambers, whereas the German *Bundesrat* is very powerful, having its hand not only de jure, but also de facto in most important areas of legislation. Furthermore, the latter is the only second chamber identified by Thorlakson which yields a strong joint decision-making effect. In contrast, such an effect is absent in Canada (Thorlakson, 2003: 19). Finally, another instructive institutional indicator is fiscal federalism. German federalism distinctly resembles the intrastate logic due to its comprehensive regime of horizontal and vertical equalization, which almost completely levels any fiscal imbalances between *Länder* on the revenue side. Likewise, about 72 percent of all tax revenues are shared between both tiers (Gunlicks, 2003: 176). The structure and revenue distribution of income, corporate and value added taxes are agreed upon jointly between the *Länder* and the federal government, thereby eliminating almost any scope for competition or variation in tax policy. In contrast, recurring debates about vertical and horizontal imbalances in Canada reveal a typical pattern of fiscal federalism inherent to the interstate model. While the redistributive impact of vertical equalization is comparatively low, both governmental tiers independently have access to all important tax fields.

In both cases the high degree of institutional coherence with either model of federalism is a historical outcome which has been evolving in a decidedly path dependent pattern. The development of both institutional regimes largely meets the criteria of what Stinchcombe (1968: 103) calls historical causation. In Canada and Germany alike, different federal solutions were selected from several options which were available within the critical junctures of 1867 and 1871. Once they had become locked-in, these outcomes have been reoccurring even in the absence of the conditions that initially had brought them into existence.<sup>4</sup> Moreover, interstate federalism in Canada and intrastate federalism in Germany did not only shimmer perceptively through the institutional order at the time of their birth. They have also become amplified as distinct principles over time while institutional features not compatible with the respective federal logic have been gradually phased out.

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<sup>3</sup> German federalism exhibits a very large number of policy areas formally falling under concurrent legislation. For the most part, however, concurrent legislation is characterized by federal legislation and *Länder* participation through the *Bundesrat*. Apart from their involvement in the process of federal legislation, the main function of *Länder* within the federal system is policy implementation, which covers almost all policy areas except for the few jurisdictions enumerated in Art. 87 Basic Law.

<sup>4</sup> Needless to say, in the German case this holds not for the time of the so called Third Reich between 1933 and 1945, when all federal elements were abandoned.

## *Institutional Lock-In*

A path dependent sequence is necessarily being set into motion by a contingent selection process. At a critical juncture, therefore, several options have to be potentially available for realization. If a historical outcome can instead be explained or is even determined by a specific set of initial conditions, it is not path dependent (Goldstone, 1998: 834; Mahoney, 2000: 537). Yet, as Crouch and Farrell (2003: 20ff.) point out, even at highly contingent critical junctures which might yield off-path change, entrepreneurial actors do not choose randomly. Rather, they operate within a more or less historically structured environment which shapes their capacity to choose among various options. More specifically, the authors distinguish three important sources: a) redundant resources or subordinate path dependence, where actors draw on unrealised, suppressed or hidden alternatives; b) learning from solutions already used in adjacent fields and c) learning from actors' embeddedness in networks of policy fields, which provide them with potential solutions in order to respond to change.

The two critical junctures leading to state formation in Canada and Germany by and large meet these strict criteria emphasized in the literature. Apart from the possibility that the status quo could have been preserved as a result of state formation failure, the "founding fathers" in both countries had at least three options to their disposal: an unitary state or two variants of a federal system, either more along the lines of the intrastate model or, alternatively, with the interstate model.

An important part of the political elite in Canada and Germany was in favour of an unitary state. In Canada, the proposal to create a "Legislative Union" was not only strongly advocated for by most Conservatives from Canada West. This solution was also the most suggesting alternative because it was in accordance with the tradition of Great Britain, which generally shaped the political, ideological and cultural repertoire of the anglophone majority. John A. Macdonald, Jonathan McCully and Charles Tupper, for example, referred to the New Zealand constitution of 1852 during the confederation debates because it had largely followed this pattern by accommodating the interests of regional entities within an unitary framework (Waite, 1962: 96; 204; 285). Likewise, most leaders of the national liberal movement in Germany, which was the driving force behind the process of national unification during the 19<sup>th</sup> century, considered federalism as a second best solution. Their hostile attitude towards federalism was shaped significantly through the experience of post 1848 counterrevolution, when the confederal structure of the German Confederation (*Deutscher Bund*) proved to be a major obstacle to the consolidation of the revolutionary momentum in Germany. While the necessity to establish a federal framework had been acknowledged among most leaders of the movement prior to 1848, it noticeably became to be equated with an "aristocratic pattern" (Katzenstein, 1976), that means a powerful instrument of the old monarchic-dynastic elite to maintain the established confederal order (Nipperdey, 1986: 79). Federalism, in short, was perceived to be archaic, hindering political modernization, progress and, most notably, national unity (Lehmbruch, 2002: 71).

In both cases, however, the solution preferred most among entrepreneurial agents to reduce contingencies and bring back the historical trajectory on a more stable path was hardly achievable. Theories of comparative federalism provide for different explanations of why the route to an unitary state is cancelled out during the process of state formation (Riker, 1975; Stepan, 2004; Ziblatt, 2006). While they place accent on different causal mechanisms, they basically agree that the necessity to accommodate the aim of national unity with the undeniable fact of powerful regional entities that had pre-empted political space before impedes the establishment of an unitary state. Ziblatt (2006), for example, has compellingly demonstrated that infrastructural capacities of constituent units, that means high levels of state rationalization, state institutionalization, and embeddedness of the state in society opened the



pathway to federalism in Germany.<sup>5</sup> State building on the level of constituent units had begun to take shape after 1648, when they increasingly have been grown into the international system as self-determining actors and the Holy Roman Empire lost relevance as their primary reference. When the German Confederation was created in 1815, the medium sized states were at the peak of their power, most of them maintaining control through an extensive bureaucracy and a standing army (Reinhard, 2000: 419; Winkler, 2002: 71). While the colonies in British North America did not share the same extent of infrastructural power, between the 1840s and 1867 their bureaucratic state apparatus has nevertheless grown and has become more autonomous in relation to both, Great Britain and social groups within their respective societies. This period was characterized through institution building, an extension of the scope of state activity, the development of rational-bureaucratic structures as well as the recruitment of a new elite (Greer and Radforth, 1992: 4). Colonies were able to govern more independently in a growing number of domestic affairs (Careless, 1967: xi). Moreover, the unfolding of responsible government within the Legislative Assemblies after 1848 not only gave rise to an increasing dependence of the Executive Councils, but also fostered the role of the colonial state as a political arena for social conflicts. As the formation of party systems and competition became more pronounced in the United Province of Canada after the realignment of 1854 (Careless 1967: 20ff.), established power structures necessarily got more permeable. Yet while the colonial state's role as a "guardian of the universal interests of the society" (Rueschemeyer and Evans, 1985: 47) was still rather limited due to the high degree of patronage, it nevertheless promoted a growing embeddedness of the state within its respective society.

In view of federal theory the outcome of both state formation processes appears to be predictable and, thus, lacking contingency as a necessary occurrence within critical junctures. In both cases, however, contingency was nonetheless involved.<sup>6</sup> On the one hand, both federations did indicate a clear preference for either model from the beginning. On the other, hand the consolidation of each institutional pathway and the temporal downstreaming of institutional elements not compatible with either logic has been evolving in the long term.

Institutional arrangements were designed in order to express the different ideas inherent to interstate or intrastate federalism, respectively. In Canada, *séparation des pouvoirs* provided a neat solution because this logic reflected the interests of proponents of a legislative union like Macdonald as well as those Confederationists who were more inclined to the federal principle per se, most notably Bleus and Reformers of Canada West. From the viewpoint of the former, interstate federalism enabled them to establish a constitutional framework much more consistent with Westminster democracy than it would have been in the case of an intrastate system which exhibits entanglement and shared rule. As long as the federal government would obtain important jurisdictions alongside a broad range of intrusive powers such as the powers of disallowance and reservation, the declaratory- and the POGG-clause, federalism could easily be considered as a "happy medium". In fact, from the perspective of centralists such as Macdonald, Galt and others, the institutional order as it emerged in the Quebec scheme "[...] relegated federalism to the parts" (Smith, 1984: 272).

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<sup>5</sup> If infrastructural capacities are highly developed at the time of state formation, they account for a federal outcome instead of the creation of an unitary state. It is important that the causal mechanism underlying this argument emphasizes not, as Riker's account, the lack of military capacity of the core due to strong infrastructural capacities on the subnational level. Instead, highly developed constituent units can serve as credible negotiation partners and, more important, significantly contribute to deliver public goods for the union after state formation (Ziblatt, 2006: 13).

<sup>6</sup> This becomes particularly obvious in the Canadian case. The Charlottetown Conference had been originally initiated by lieutenant-governors, most notably Arthur Gordon of New Brunswick, in order to negotiate exclusively the Maritime Union. Gordon, who was rather inimical to the idea of a British North American Union, was yet unable to oppose the shifting dynamic after the delegates from the United Province of Canada had arrived in order to unveil their plans for Confederation (Creighton, 1976).

History thereby operated as a redundant resource in at least two ways which both fostered an institutional arrangement in accordance with the interstate logic. First, Canadian federalism was obviously much more "Madisonian" in character than the classical literature represented by Peter B. Waite, Ramsay Cook or Donald Smiley suggests (Smith, 1984; 1988; Vipond, 1989). While the Senate was indeed a controversial issue at the Quebec Conference, the deliberations, however, never predominantly centred on the Senate as a means of putting into effect intrastate federalism.<sup>7</sup> Instead, questions concerned with the federal principle primarily centred on sovereignty and the division of powers. Thus, elements of interstate federalism in the US-constitution did serve as a role model. But the configuration of residual powers and state sovereignty as it had initially been designed in the US-constitution was to be reversed in Canada. Second, elements of intrastate federalism which are also essential to the US-constitution were largely ignored due to the negative experience with stalemate in the United Province of Canada. This seems to be even uncontroversial between Donald Smiley and Jennifer Smith, who have otherwise disagreed on the relevance of intrastate elements in the early days of Canadian federalism:

[...] Confederation was a partial disentanglement, with the matters on which the two sections (under the Act of Union) were most at odds now conferred on the new provinces of Ontario and Quebec (Smiley, 1987: 38).

The 'inherent defect' of the latter [the Province of Canada] was that it tried to combine *within itself* two contradictory principles, federalism and unity of action. [...] The Quebec scheme [...] remedied this by modifying the federal element of the new national government in such a way that it no longer seriously interfered with unity of action (Smith's emphasis 1984: 270).

The option to create a federal system more in accordance with the interstate model in Germany was available as well. Many delegates of the National Assembly in St. Paul's Church in 1848 were already familiar with the ideas inherent in the US-constitution as expressed in Tocqueville's *De la démocratie en Amérique* and identified them as an important reference point in their deliberations (Deuerlein, 1972: 86). With the failure of the revolution, however, it was not only that the federal idea as such lost currency within the movement, but also that the US-constitution as a role model in particular appeared to be unsuitable to German conditions (Treitschke, 1913: 134; Ullner, 1965: 17). Instead, it was especially Bismarck and the monarchic elite of the constituent units who aimed at establishing a federal system highly reflective of the intrastate logic. First, like in Canada history served as a redundant resource and operated as a background variable in the critical juncture of 1871. Unlike in Canada, though, the historical track entailed an alternative that offered a time tested and promising institutional response to the dilemma of achieving national unity without violently destroying constituent units with highly developed infrastructural capacities. The roots of the *Bundesrat*, which was created as the federal core institution of the German Empire, can be traced back to two institutions that served a similar purpose within a confederal framework: The *Immerwährende Reichstag* within the Holy Roman Empire and the *Bundesversammlung* within the German Confederation (Lehmbruch, 2002: 84). Both institutions rested on a similar institutional logic: They incorporated delegates from territorial units into the decision-making

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<sup>7</sup> Christopher Dunkin's critique of the Quebec scheme clearly illustrates that the founding fathers were well aware that the Senate was not intended to fulfil any function of intrastate federalism: "As vacancies occur, they are to be filled as we are told now – and this is the strangest thing of all – not by the provincial legislatures, nor by any authority or any avowed influence of the local kind, but possibly by the general government. And forsooth, this is called the federal feature of our system!" Christopher Dunkin, February 27<sup>th</sup> in the Legislative Assembly, cited in: Ajzenstat et al., 1999: 306. This view is also supported by Robert Mackay (1963: 44): "[...] the Fathers of the federation did not expect that the Senate would be the chief line of defence for the protection of provincial or sectional rights. The first great check on the central government would be in the federal nature of the Cabinet; the upper house would be only a last means of defence".

process at the (con)federal level. Second, the intrastate allocation of political authority appeared to be most responsive to the interests of strong executives and bureaucracies that had developed in the German states on the one, those of hegemonic Prussia on the other site. Indeed, the aspirations of subordinate groups aiming for democratisation and national unity were to be modestly accommodated by establishing the *Reichstag*, which was elected by direct and equal manhood suffrage and was vested with the power to amend and reject bills. At the same time, however, a major threat to the interests of the old aristocratic elite could be thwarted by deliberately tying them together within an interlocked system of executive shared rule through the *Bundesrat*, which broadly outweighed the powers assigned to the *Reichstag*.

### *Path Consolidation*

To be consistent with the narrow conception of path dependence, an outcome triggered by a critical juncture must be reproduced even in the absence of the initial conditions that had brought it into existence. This theoretical argument basically applies to the evolution of the two institutional arrangements under investigation. Except for the period between 1933 and 1945 in Germany, both federal arrangements have been stably reproduced. Major shifts in historical context notwithstanding, political actors have been either not capable of inducing a transformation of the basic institutional framework or, alternatively, adapted to it due to positive feedback effects. As a consequence, the three dimensions of federalism – institutions, actors, ideas – have developed in an increasingly complementary way in both countries.

The option of an unitary state got lost in both cases which is, at the first glance, astonishing in the German case. Unlike in 1848 and 1871, monarchic resistance towards the twofold aims of the former national liberal movement, political freedom and national unity within an unitary framework, was considerably weakened after World War One. Not surprisingly, the idea of an unitary state again found support in almost all major parties on the federal level (Oeter, 1998: 71). Despite the transformation of power resources among political actors in the wake of the revolution of 1918 intrastate federalism – in a highly centralized form though - survived.

The force of positive feedback generated by intrastate federalism in Germany becomes even more obvious in the light of two constitutional provisions that were imposed on the drafters of the Basic Law by the Allied military governors. During the critical juncture of 1949, the alternative solution to intrastate federalism was not an unitary state, but a federal order more in accordance with the interstate model of federalism. The Allies expected the principle of *séparation des pouvoirs* to be more suitable to the need of preventing the evolution of centralizing forces and, accordingly, tried to adapt the German federal system to the American model. They did not, however, succeed in their attempt. In order to revert the centralizing features of the Weimar Constitution, they insisted on a system of dual taxation, assigning indirect taxes to the federal, direct taxes to the *Länder* level. Second, they intended to limit the influence of the federal government in all matters of concurrent legislation by making preemption subject to the so called *Bedürfnisklausel* (Article 72 (2) Basic Law). While the residual power was vested with the *Länder*, according to the *Bedürfnisklausel* the federal government was only allowed to take action if it was required due to the preservation of the legal and economic union as well as the establishment of the equality of living conditions.

Both provisions triggered strong negative feedback accruing to almost all political actors. They immediately developed formal and informal routines in order to bypass the dualistic division of powers and reconcile it with the intrastate logic. In 1955, the old system of joint taxation was almost completely restored in the area of direct taxation, providing for a division of income and corporate tax revenues among both tiers. Simultaneously, the horizontal

equalization scheme<sup>8</sup> was significantly enlarged, bringing up fiscal capacities of *Länder* up to at least 90 % of the average of all *Länder*.<sup>9</sup> The constitutional reform of 1969 amplified this pattern by incorporating sales tax revenues into the framework of shared taxation and by enlarging horizontal equalization once again (Renzsch, 1991).

Political actors also deliberately ignored the dualistic impetus of concurrent legislation in the Basic Law. This was to be achieved by voluntary agreements that allowed for federal legislative predominance in all major areas of concurrent jurisdictions. In turn, *Länder* governments were compensated with an extension of their influence on legislation via the second chamber. The share of bills for which the *Bundesrat* has not only a suspensive, but an absolute veto (*Zustimmungsgesetze*) expanded considerably. While *Zustimmungsgesetze* initially were considered to be an exemption in the Basic Law, their share rose from less than 20 percent in the early 1950s up to approximately 55 percent in 2000 (Dästner, 2001).

The evolution of interstate federalism in Canada provides for the counter image. While institutional elements which were destined for enforcing entanglement and provincial participation in federal legislation have never really been significant compared to the dualistic provisions entailed in the BNA Act, even the impact of those marginal intrastate arrangements have been declining during the first decades after confederation (Smiley, 1971; Gibbins, 1982; Smiley and Watts, 1985). The Senate indeed occasionally exercised its veto power to block federal legislation until the 1930s, but this was due to partisan politics rather than an expression of federal-provincial conflict (Mackay, 1963: 96).<sup>10</sup> Likewise, the federal cabinet has never proven to be an effective device for regional interests to influence legislation.<sup>11</sup> For example, this was the experience made by the former *Bleus* within the federal cabinet when they were unable to prevent the repeal of the New Brunswick School Act or with their futile efforts to protect the rights of the French minority in Manitoba in the 1890s (Morton 1980: 215). Since it had become locked-in, interstate federalism has been the reoccurring equilibrium while several efforts to adapt intergovernmental relations to the logic of the intrastate model like in the case of Senate reform or, more recently, the Social Union Framework Agreement, were doomed to failure.

### *Mechanisms of Reproduction*

What, then, are exactly the mechanisms of reproduction which account for the stability of institutional arrangements in both federations ? It is important not to overgeneralize given the fundamental shifts in historical context, which are particularly evident in the German case. Intrastate federalism had existed within the authoritarian framework of the German Empire and the turbulent Weimar period before it has been finally reconfigured within the framework of a stable parliamentary system after 1949. Federalism, thus, has obviously generated positive feedback effects to various political actors, operating under quite distinct context conditions. The same applies to Canadian federalism, even though it has - compared to Germany - been evolving within a stable framework of Westminster democracy since 1867.

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<sup>8</sup> The Allies initially also rejected proposals to reintroduce a horizontal equalization scheme similar to that of Weimar since they perceived an American like grants-in-aid-system better suited (Gunlicks, 2003: 167). However, they finally approved of the horizontal scheme entailed in the draft of 1949.

<sup>9</sup> Furthermore, demands on behalf of fiscally strong *Länder* governments to retain the right to levy their own income tax surcharge was discarded because it would yield, as expressed in the bill, unbearable social and precarious political tensions in the long run (Oeter, 1998: 182).

<sup>10</sup> The ratio of defeated bills was comparatively high between 1867 and 1873 (7,9 percent); 1874 and 1878 (5,4 percent); 1911 and 1916 (6,6 percent) and 1922 and 1930 (7,3 percent) (Mackay, 1963: 199).

<sup>11</sup> For a differentiated assessment see Bakvis 1991. While Bakvis emphasizes that the influence of regional interests in federal decision-making varies diachronically, he does not basically call into question earlier findings which stress the power concentrating imperatives of prime ministerial government.

Basically, the stability of the basic institutional features of federalism in both countries is due to power-based mechanisms of reproduction. First, in Germany intrastate federalism owes its persistence first and foremost to the power-based interests of bureaucratic interests on the level of constituent units (Triepel, 1907: 87).<sup>12</sup> This is why the transformation of power resources among political actors in the wake of the revolution of 1918 did not yield a de-locking of intrastate federalism. The new democratic elite who became empowered lacked administrative expertise and experienced staff and was dependent on the compliance of the old civil servants who still occupied large parts of the bureaucratic machinery (Winkler, 2000: 384). Due to the established preponderance of administrative structures on the level of constituent units, intrastate federalism necessarily kept momentum. Furthermore and, somewhat paradoxically, the self-preserving interests of the traditional bureaucratic elite interfered with those of the newly elected governments on the level of constituent units, who appeared to be unwilling to give away their new power position (Craig, 1978: 418; Nipperdey 1986: 88). This emerging coalition comprising local party organizations and their respective bureaucracies was successful in repelling several attempts on behalf of their federal counterparts to establish an unitary state.<sup>13</sup>

Second, and somewhat different from Canada, in Germany power-based mechanisms have been strongly reinforced by legitimation-based mechanisms of reproduction. The intrastate order has been constantly informed by a distinct shared understanding among political elites which can be traced to the mid 19<sup>th</sup> century. This paradigm of unitarianism has evolved as a cognitive map among political and bureaucratic elites that informed their informal routines because the path of centralization was impeded (Lehmbruch, 2002: 72). Under the unitarian paradigm, governments of both tiers committed themselves to coordinate their activities in order to achieve uniform solutions applying in the whole country (Triepel 1907: 53ff.). Simultaneously it proved to be consistent with the power-based interests to preserve the political and administrative integrity of the constituent units. As unitarianism and the highly entangled system of power sharing informed both, legitimation- and power-based mechanisms of reproduction, they set into motion a self-reinforcing sequence which turned out to be highly stable even in the wake of significant shifts in historical context. Furthermore, since intrastate federalism exhibited equifinality, the difficult achievement of an united Germany within an unitary institutional framework became obviously obsolete.

Third, this basic pattern of reproduction has been decidedly reconfigured under the conditions of a stable parliamentary democracy since 1949. Germany's system of joint decision-making has generated positive feedback for bureaucratic-executive actors (Scharpf 1988; 2005) and for political parties alike (Lehmbruch 1998). Executives along with their bureaucracies from both tiers have been considerably strengthened at the expense of the decision-making and control capacities of *Länder* parliaments. Moreover, unanimous decision-making behind closed doors exhibits a pressure relieving impact because political responsibilities are blurred. In case of successful negotiations they allow all governments to claim credit, while blame for unpopular decisions can easily be shifted on others. This comfortable mechanism of executive decision-making is fostered in Germany because political actors have no exit-option and, thus, cannot be held responsible for political outcomes in the same way like voluntarily negotiating politicians in interstate federations.<sup>14</sup> Finally, highly integrated nationwide parties have

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<sup>12</sup> The dominance of bureaucracy on the level of constituent units is one significant constant of Germany's "semisovereign state": The federal bureaucracy comprises only approximately 10 percent of the total number of all civil servants (Katzenstein, 1987: 20).

<sup>13</sup> The dilemma was posed especially on the centrist social democrats, who occupied most of the *Länder* governments in the early days of the Weimar Republic. Ironically, the Bavarian governments under Eisner (socialist) and Hoffman (social democrat) or Prime Minister of Prussia Otto Braun (social democrat) ranked among the most decisive advocates of federalism (Lehmbruch, 1998: 69).

<sup>14</sup> This is exactly why from a German perspectives the critique about the alleged democratic deficit in Canadian federalism (Cameron and Simeon, 2000) appears to be somewhat misleading. In Canada, political actors from

significantly contributed to reinforce intrastate federalism in the post war period. German political parties are usually able to enforce compliance of *Länder* premiers in the *Bundesrat*. This is why in the past, as Lehmbuch's (1998) seminal work has revealed, territorially defined cleavages have been increasingly superimposed by the logic of national party competition. For parties in opposition, the *Bundesrat* is the most important tool in order to frustrate legislative initiatives of the federal government.

Power-based mechanisms also provide for the strongest explanation of institutional reproduction in Canada. In principle, the interstate mechanism has been continuously supported by various actors for different reasons. Positive feedback accrued first to provincial governments because it allowed for effective resistance towards centripetal forces within the federation. It is a reoccurring pattern in the history of Canadian federalism that provincial efforts to launch quasi-intrastate "voice"-strategies in order to make the federal government more responsive to their needs fail. In turn, this has reinforced the interstate logic because they can always seize the opportunity to "exit" and, therefore, develop their political aims within their respective sphere of exclusive authority.<sup>15</sup> The lack of responsiveness of federal institutions generates negative feedback and explains, for example, why political actors from Quebec recognized during the 1880s that it would be more promising to exit federal politics and, instead focus on institutional capacities on the provincial level in order to become "maître chez nous".<sup>16</sup> Likewise, and even though provinces have no jurisdiction over monetary or banking policy, the Social Credit government under Aberhart attempted to "[...] attain the objectives of the movement by exploiting the power and position of the provincial legislature rather than by modifying national policy through securing legislative change in Ottawa" (Mallory, 1976: 57).

Unlike the Conservatives from Quebec, liberal governments on the provincial level, most notably in Ontario, had realized the advantages of the dualistic allocation of political authority for the purpose of a strengthening of the provincial position from the beginning. This is clearly reflected, among other things, in their successful attack on the dual mandate, which happened to be another contribution to the consolidation of interstate federalism in Canada. Even though the federal principle was apparently "in flux" during the 1860s and 1870s (Vipond, 1989: 5), entrepreneurial agents leading the provincial rights movement developed a clear understanding which followed the idea of *séparation des pouvoirs*. Federalism, as David Mills has put it, was meant to "[...] enable the different Governments to carry on their functions independently (sic) and without interference" (cited in Vipond 1991: 40f.). Furthermore, they rejected any proposals aiming at joint action between the federal government and the provinces as it was, for example, suggested by the conservative MP J.B. Robinson in some matters of liquor regulation. Instead, they upheld to the principle of strictly separating both intergovernmental tiers in order to act independently of any intrusion on behalf of the federal government (Vipond, 1991: 153ff.).

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both tiers can always opt for unilateral action in case no compromise can be achieved. Likewise, electoral campaigns reflect the dualistic allocation of jurisdictions, whereas in Germany *Länder* elections usually revolve around questions of national policies. In fact, they are "second order national elections" (Scharpf, 2005: 6) in which voters often express their dissatisfaction with the federal government.

<sup>15</sup> This pattern is demonstrated in several landmark studies on province building, most notably in Armstrong (1981) for Ontario, Johnson (2004) for Saskatchewan, Richards and Pratt (1979) for Alberta and Saskatchewan.

<sup>16</sup> This shift was reinforced by the realignment in Quebec politics in the 1890s which brought the former Rouges to power. W.L. Morton has also pointed out to this critical period which finally gave way to Quebec's reorientation from "voice" to "exit": "Most of all it forced on Quebec the choice between reliance on the national government for defence of minority rights in education [...], or a reliance on the self-government of Quebec to preserve the French language and Roman Catholic schools in that province, if need be alone. In short, the trend towards provincial rights and the return to the institutionalised duality of the period of the *Act of Union* had begun (Morton's emphasis 1980: 217f.).

Political parties contributed to consolidate and sustain the interstate order as well. In Germany's intrastate arrangement the concentration of decision-making on the federal level has encouraged political parties to become highly integrated. In contrast, the dualistic allocation of authority in Canada has not only promoted the emergence of regional parties, but also a rather low organizational coherence of national parties (Smiley, 1987: 117). For example, the interstate arrangement enabled the Liberals, which were faced with considerable difficulties to create an efficient opposition to Macdonald's Liberal-Conservatives on the federal level, to make up for these deficiencies by concentrating their activities successfully on the provincial level. This institutional mechanism discharged them from the difficult task to bridge ethno-cultural cleavages between Ontario Reformers and Clear Grits on the one, the former Rouges on the other hand. After the Liberals had succeeded with their efforts to find common organizational and programmatic grounds for a federal organization and came to power in 1896, the Conservatives – at least in principal – seemed to have realized that loosening the ties between federal and provincial organizations might be a promising strategy for them as well.<sup>17</sup>

Sir Charles [Tupper] considered it inevitable that in a diverse federation the provincial wings of any party would differ among themselves on many questions, and he believed that the ties between federal and provincial parties were a source of inconvenience and embarrassment to both (Stevenson, 1993: 184).

Finally, federal governments in Canada basically have cherished the benefits of interstate federalism as well because it allows for effective action even in the face of provincial resistance. Neither the protective tariff of the First National Policy, nor the National Energy Program or unilateral cuts entailed in the Canadian Health and Social Transfers could have been conducted so effectively if provincial governments had their hands in federal legislation like in Germany's intrastate arrangement. This is why Ottawa deliberately avoided to commit itself to a more collaborative approach as jointly requested by the provinces at the end of the 1990s. For example, Ottawa rejected - among other constraints - an opting-out clause related to direct spending and, instead, settled for an increase in vertical transfers:

[...] there are few commentators who will dispute the notion that provincial governments backed away from a large part of their negotiation position in return for additional federal money (Lazar, 1999: 29).

#### **IV. Diverging Dynamics**

Canadian federalism provides a striking example of how a path dependent institutional arrangement yields non-path dependent or, in Page's terminology, path dependent change. Admittedly, it is a common, yet very macroscopic and somewhat simplifying view to qualify the dynamic of Canadian federalism as oscillating between a centrifugal and a centripetal pole.<sup>18</sup> A more fine grained perspective would certainly detect differences that have always persisted depending on the policy area (Leslie, 1987). If contrasted with the historical development of German federalism, which is characterized by an almost unidirectional

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<sup>17</sup> Rand Dyck (1991:132) points out that the process of organizational dis-integration ultimately sets in with the conscription crisis of 1917 and the success of the first regional "party", the Progressive Movement, in 1921. In any respect, it is the dual structure of interstate federalism which provides provincial politicians to loosen the organizational ties and, instead, act more independently whenever they are frustrated with the politics of their federal party organization. Another instructive example for this typical pattern is the effort of the Saskatchewan Liberal Party under Ross Thatcher to cut the cord with the Pearson Liberal's because of their close cooperation with the NDP on the federal level (Smith, 1976: 291).

<sup>18</sup> See for example Black and Cairns; 1966; Stevenson, 1989.

process of unitarianism,<sup>19</sup> however, divergent dynamics become clearly visible. For example, even though Canadian federalism got locked-in in a highly centralized form, this initial advantage did not pay off in the way the narrow conception of path dependence would predict. Quite contrary to Macdonald's expectation provinces did not wither away but instead have emerged as powerful entities within the federation. Likewise, the federal government has frequently utilized its power capacities conferred by the interstate order – most notably the spending power – in order to thwart centrifugal dynamics, with varying success though. From a historical institutionalist perspective, the missing equilibrium in the development of Canadian federalism is basically due to the interplay of two factors: First, frictions have always been prevalent since power-based and legitimations-based mechanisms of reproductions interfered not as congruently as in the German case. Second, the low degree of institutional rigidity has always allowed for the federal government and provinces alike to effectively counteract centrifugal or centripetal dynamics, respectively. In contrast, equifinality and a high degree of rigidity have kept German federalism tightly on track, even though frictions have become much more prevalent since the 1990s.

### *Frictions*

Legitimation-based mechanisms support an institution because it corresponds with the beliefs of a significant part of society and political elites about what is conceived of as morally appropriate, just and efficient. In federations, conflicting attitudes can arise over two questions. First, ideas might clash on the question whether the federal system should be organized either around the principle of shared rule or, alternatively, self-rule. Second, disputes might occur on the issue of which tier is permitted to act in a certain area of public policy. Due to the integrated allocation of political authority in intrastate federations, however, disputes of the second type are much more likely to emerge in federations which bear resemblance to the interstate model.

Whereas the broad consensus informed by unitarianism over an integrated allocation of political authority and equifinality has contributed to the stable and path dependent reproduction of intrastate federalism in Germany until the 1990s, Canada has lacked such a widely shared agreement about the legitimacy foundations of the federation from the beginning. Basically, diverging claims about the meaning and function of federalism have been existed with respect to both conflict dimensions. The Reform Party's call for the West wanting in or the desire of the provinces to make Ottawa's spending decisions more dependent on their approval in the aftermath of the CHST reflect the belief that federalism should be more directed towards the idea of shared rule. More important, however, have always been competing views on the division of powers. Challenging and defending discourses in the intergovernmental arena are usually compatible with the interstate model, but the cognitive and normative ideas clash, in the broadest sense, on the question "who should do it" (Pierson, 1995: 451).<sup>20</sup>

Several legitimacy images of Canadian federalism have been identified in the literature.<sup>21</sup> On a general level, these images can be synopsised to two conceptions, which themselves

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<sup>19</sup> It is important to mention that the notion of unitarianism refers to a paradigm or shared understanding among political elites which informs legitimation-based mechanisms of reproduction. Furthermore, the notion also comprises the empirical process itself in which uniform solutions are jointly agreed upon. In the latter sense, unitarianism has become a surrogate for centralization. The difference is that centralization is usually imposed on actors top down, whereas unitarianism stresses the consensus driven efforts of all actors.

<sup>20</sup> Pierson's nice phrase should be read in a broad sense, capturing not only the question which governmental is allowed to act but also which instruments it may use in a certain area of jurisdiction. As indicated above, this question plays a minor role, if any, in intrastate federations due to the functional division of powers.

<sup>21</sup> See for example Mallory, 1968; Black, 1975; LaSelva, 1996.



have been reoccurring in two distinct variations each. The pan-Canadian approach has its roots in Macdonald's imperial conception of federalism. After the provincial rights movement had successfully challenged and discredited this conception, pan-Canadianism was reframed and has been basically applied as a legitimizing idea in two ways. Both variants share the belief in the necessity of a strong central government in order to maintain national unity and stress that the "sharing community" (Banting and Boadway, 2004) is the country as a whole rather than a single province, but differ in their appearance. The paradigm has informed Ottawa's intergovernmental approach either in the more accommodative form of Premiers such as Laurier and Pearson or without much consideration of the vital interests of provincial governments as it was the case with Trudeau's or Chretien's unilateralism. The province-based paradigm as a counter-narrative in the legitimizing discourse also takes two basic forms, which were first expressed in the two variants of the compact theory (Cook, 1971). In opposition to the pan-Canadian paradigm, provinces claim federalism either to be a compact among equal provinces or, alternatively, as a compact among two nations, thereby calling for asymmetrical federalism. As recurring disputes in the area of welfare state or energy politics reveal, according to this paradigm the sharing community is claimed to be the province rather than the country as a whole (Simeon, 1980: 184).

The problem with these competing legitimacy ideas is not so much their mere existence, particularly since they are not necessarily exclusive. For example, pan-Canadianism in its accommodative form on the one, asymmetrical federalism on the other hand have appeared to be much better suited to bring intergovernmental relations temporally on a more equilibrated path than in case of a federal government which is committed to the unilateral approach. The experience with the Pearson years (McRoberts, 1997), but also more recently with the Health Accord of September 2004 or the debate on "open federalism" seem to support this assessment. From a historical institutionalist perspective the point is rather that no single idea has ever become locked-in as a cognitive or normative frame which has resonated in a significant part of society for an extended period. Because the meaning of federalism has been in flux from the very beginning, unlike in Germany entrepreneurial agents were unable to actively cultivate one paradigm early in the historical sequence. The effectiveness of legitimation-based mechanisms of reproduction, however, depends considerably on such an early lock-in because social constructs then appear as objective, given truths to preceding generations which are difficult to challenge on behalf of entrepreneurial agents (Beyer, 2006: 34). The success of the provincial rights movement in establishing the "myth" of the compact theory thus impeded such a habitualization of Macdonald's imperial conception of federalism. In contrast, the historical force of unitarianism has hampered efforts to launch an alternative paradigm of federalism since the 1990s in Germany. Unitarianism is firmly rooted within large parts of German society as an allegedly objective truth. Whereas Germany's conservative welfare state regime stratifies differences in social status and, thus, indicates that a large part of society is less egalitarian than for example Scandinavians, it appears somewhat striking that this tolerance towards different outcomes falls short when it comes to the territorially defined principle of equality of living conditions. Thus, efforts to mobilize against any substantial reform proposals by denouncing them as a threat to the principle of equality of living conditions or an attempt to revoke the traditional horizontal solidarity among *Länder* which would inevitably foster ruinous competition have traditionally resonated well within German society. As will be shown they cannot, however, alone explain for the failure of recent efforts to overhaul the federal order.

Incongruities and contradictory pressures within Germany's intrastate regime have become much more visible since the mid 1990s. Significantly intensified regional disparities due to reunification alongside the imperatives of the common European market have given way to efforts of several *Länder* governments to destabilize legitimations-based mechanisms of reproduction. Fiscally strong *Länder* governments ranked first among the coalition which has

been deliberately trying to challenge the established intrastate arrangement. Negative feedback generated by joint decision-making accrued most obviously to them. Given the poor economic and infrastructural performance of the six new *Länder*, a massive fiscal transfer increasingly strained resources of the old *Länder*, thereby intensifying regional redistributive conflicts (Benz, 1999: 70; Ziblatt, 2002: 631f.). Furthermore, for many *Länder* governments it seemed to be more rewarding to extend their autonomous policy making capacities rather than to devote their energies to federal joint decision-making given the fostered regional competition within the European market (Benz, 1999a: 182). These efforts interfered with the impression of permanent stalemate due to opposing majorities in the *Bundestag* and *Bundesrat*. Partisan politics have become much more polarized in the 1990s because neoliberal informed policy proposals took a more radical stance. As a consequence, more than ever before the *Bundesrat* has served as a tool for blocking legislative initiatives by opposing majorities.

The demands of fiscally strong *Länder* governments to overhaul the intrastate order were increasingly echoed within the larger public. The media, joined by a growing number of partisan and non-partisan think tanks, framed a debate which clearly identified intrastate federalism and equifinality as a major reason for Germany's poor performance.<sup>22</sup> On the level of legitimation-based mechanisms of reproduction, the aim was to discredit unitarianism in favour of "Wettbewerbsföderalismus" (competitive federalism), a phrase that gained currency not only in certain circles within the intergovernmental arena, but also within the broader public (Ziblatt, 2002). In the face of this cumulative legitimacy pressure, the defending coalition comprising the majority of fiscally weak *Länder* as well as the federal government was not able to stave off another attempt to reform the federal order in 2003.<sup>23</sup>

#### *Frictions, Rigidity and History Dependence:*

##### *Federal Institutions as Constraining and Enabling Entities*

By referring to William Livingston, Charlie Jeffrey (1999: 339f.) has posited that German federalism has now found a "social base", which triggered a shift from cooperative federalism to what he calls the "Sinatra doctrine" of the *Länder*, "[...] with each Land doing it `my way`, sometimes with, sometimes without the support of the others". While his conclusion might be somewhat over generalized, he rightly points to the growing incongruence between the intrastate institutional arrangement on the one, the other two dimensions of federalism on the other hand: "Doing it `my way` will at times be difficult and controversial as long as the constitutional framework for German federalism remains predicated on notions of consensus and coordination."

For the Sinatra doctrine of (some) *Länder* to become reality, it was necessary to considerably ease the degree of institutional rigidity. Advocates of change have thus focused on a strategy of institutional conversion, that means a redirection of the existing federal order to new purposes (Thelen, 2003: 36). The federal order was identified as the major cause for Germany's crisis. But it was not federalism per se which was called into question but the

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<sup>22</sup> Typical headlines read the "paralysed", "blocked", "shackled" and "depressed republic". Furthermore, "Reformstau" (reform gridlock) was the "Word of the Year" in 1997.

<sup>23</sup> In fact, the federal government held a somewhat ambivalent position. On the one hand, the Schröder government paid lip service to the need of dis-entanglement and efficiency. Moreover, it had an interest in reducing the influence of *Länder* governments not only in the *Bundesrat*, but also in most matters concerning policy-making in the European Union. On the other hand, it hardly engaged as an entrepreneurial agent within the reform process. This reluctance is due in part because the pressure to transfer competencies back to the *Länder* was significant, while the federal government was clearly not an advocate of decentralization. The second reason stems from the traditional coalition which has emerged from the 1950s in the intergovernmental arena between the federal government and the majority of fiscally weak *Länder*.

institutions of intrastate federalism. Features inherent to the interstate model such as disentanglement and strengthened *Länder* autonomy were considered to be more suitable to the new internal and external challenges than unitarianism, joint decision-making and equifinality. In a speech given before the *Bundesrat*, former social democrat premier of North Rhine-Westphalia, Wolfgang Clement, clearly highlights multifinality as a desirable property of federalism:

A federal organization of the state means, though, that many, if not most political issues should – indeed must - be decided decentrally, in order to be close to the need of citizens and to allow for quick responses through politics. Federalism can only be a powerful institutional arrangement if constituent units are willing and able to learn from each other. This presupposes, however, not uniformity, but calls for multiplicity, concurrent models as well as temporally and territorially limited policy experiments. [...] Therefore, constituent units need sufficient and important jurisdictions, which they can perform autonomously. Furthermore, this is why they also need adequate fiscal resources (Clement, 2001: 5f., translation mine)

Through the lens of historical institutionalism federalism was meant to be transformed from a primarily constraining to a rather enabling institutional order. What entrepreneurial agents were aiming for was to enhance the degree of the institutionally determined scope for contingent solutions or, in other words: to allow for more structural contingency within the federation. If, for example, Land A opts for a certain approach in labour market policy and Land B adopts this policy even though it was on a different path before, this is a contingent interaction effect which is hardly achievable in Germany's federal system because all major policy areas are subject to equifinality.

It is hardly contested within German political science that the high expectations which had been linked to the new effort to reform the federal order between 2003 and 2005 were not met by any means.<sup>24</sup> While entrepreneurial agents had no exit option in order to escape from the “joint decision trap” (Scharpf), the high degree of institutional rigidity which was at stake itself provided the defending coalition with an important power resource in order to channel the agenda by determining what was negotiable, and what was not. Not surprisingly, fiscally weak *Länder* had discarded most controversial issues such as equalization and taxation from the agenda before negotiations even started. With these issues out of the way, there was still considerable scope, however, for a common *Länder* strategy of institutional layering (Thelen, 2003: 226). The most innovative suggestion put forth was the idea of a provision allowing for “indirect dis-entanglement” (Schultze, 2000) by adopting a general opting out clause applying to most matters falling under concurrent legislation. This would have significantly enlarged the scope of policy autonomy of those *Länder* governments who are more inclined to implement their own solutions in areas such as regional economic, labour market, social and environmental policy. Yet here it was the federal government who prevented an institutional adaption which could have turned out to alter the path of German federalism in the medium or long run. While opting out provisions were strictly limited to very few jurisdictions, the deliberations of the reform commission were primarily absorbed by a desperate effort to subdivide jurisdictions which are apparently belonging together and then assign these narrowly circumscribed matters “exclusively” to either tier.<sup>25</sup> The reform thus might have succeeded in quantitatively reducing the matters subject to an absolute veto by the *Bundesrat*. Neither does it, however, give way to more *Länder* autonomy in important jurisdictions and,

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<sup>24</sup> For assessments in English see Schultze, 2005; Scharpf, 2005.

<sup>25</sup> Fritz W. Scharpf, who was a member of the reform commission himself, aptly summarizes this main outcome of the latest reform: “In the end, the strong *Länder* thought they had obtained very little. Apart from the (largely undisputed) right to adopt their own civil-service regulations, the consensual package included mostly competencies that were narrowly circumscribed; instead of regional economic policy, the right to regulate shop closing hours and local fairs; instead of social policy the right to regulate old-age homes, or instead of environmental policy the right to regulate the noise of leisure activities” (Scharpf, 2005: 14).

thus, foster multifinality within the federation; nor was the degree of institutional rigidity significantly reduced. In fact, almost all matters which have been blocked through the *Bundesrat* due to partisan politics in the past are still subject to the approval of both chambers. In Canada, multifinality has enabled both governmental tiers to either launch Sinatra doctrines whenever they were not able or willing to reach consensus or, alternatively, to voluntarily achieve common solutions because interstate federalism provided them with important power resources which they can employ independently from each other. The patchwork of welfare state programs as it has emerged between 1941 and 1966 clearly reflects this impact of contingencies triggered through multifinality. With few exceptions, jurisdictions over most areas of welfare state policies had become locked-in on the provincial level with the BNA Act in 1867. This early pre-emption notwithstanding, the post-war welfare state in Canada has developed in a multifaceted fashion with respect to both, intergovernmental responsibilities over single programs as well as their decommodifying impact (Banting, 1998; 2005; Boychuk 2004). The point is that each of the various regimes of the Canadian post-war welfare state has emerged in a highly contingent pattern, which was significantly shaped through interstate federalism. The most illuminating example is probably the case of medical insurance because here the least likely option finally got locked-in. When the critical juncture opened in the early 1960s, provincial governments in Ontario, British Columbia and Alberta were eager to implement medical insurance programs in accordance with the liberal welfare state model. As Maioni (1998: 131) has shown, this was a deliberate effort to launch a counter model ("Manningcare") to the universalistic model prepared in Saskatchewan in order to prevent the same bottom up innovation of a progressive policy that had culminated in the introduction of the universalistic hospital insurance scheme in 1958. Furthermore, the Lesage government in Quebec, while not indisposed towards a more universalistic approach in health care in principal, did not emerge as a coalition partner of the CCF/NDP due to its reluctance to accept federal interference. Finally, the federal government's position itself was a rather mediating one. The Pearson government made arrangements for a Medicare scheme which would cover individual costs depending on the income (Kent, 1988: 83). This initial disadvantage of the universalistic approach notwithstanding, it finally became locked-in with the Medical Care Insurance Act in 1966 and exhibited, as it had already been the case with the Hospital Insurance and Services Act before, spill over effects: by 1971, all provinces had implemented universal health plans in accordance with the four principles stipulated in the act.

How did interstate federalism operate as an enabling institutional mechanism, contributing to reverse an existing path? First, it allowed for multifinality and, thereby, structural contingency. Many provinces, most notably Saskatchewan, had developed considerable administrative capacities to implement their own programs and, thus, to develop contingent alternatives. This capability marks a striking difference compared to Germany's intrastate federal regime, where *Länder* governments frequently call for far reaching policy solutions, at the same time being well aware that they would never be able to realize them. In contrast, interstate federalism permits political actors from both tiers not only to articulate alternative policy proposals, but also to actively design and implement public policies according to their respective preferences. Second, event contingency played a role as well. Because the Pearson government was not able to transform its minority position into a majority government in 1965 it still had to rely on the NDP in legislation. Finally, the federal spending power significantly fostered the adoption of provincial health plans in accordance with the universalistic criteria stipulated in the act and thus, provided that the process of provincial innovation would be transformed into a pan-Canadian context (Banting, 2005).

A second instructive example for the enabling capacities of interstate federalism is Ottawa's unilateral turn to fiscal restraint during the mid 1990s. In Germany politicians from both tiers of government have desperately aimed for a common strategy to gain control over increasing debts and deficits because no tier can effectively act on its own. These attempts have been

hampered, however, due to the common pool problematic. While all actors have been paying lip service to the necessity of fiscal prudence, many *Länder* governments did not really commit themselves to such a strategy since their revenues are guaranteed anyway, most notably through horizontal equalization. In contrast, Ottawa's sudden turn from fiscal "ambivalence to voice" (Lewis, 2003: 169) between 1994 and 1995 was not only a highly contingent choice<sup>26</sup> which would have been impossible to conduct within the framework of intrastate federalism. Moreover, it was also an effective effort to reverse the path of fiscal decentralization which had slowly set in in the 1960s and was significantly accelerated in the wake of the Established Programs Financing in 1977. On the one hand, given the high share of provincial own source revenues, Canada can surely still be considered as one of the most decentralized federations of the world. On the other hand, Ottawa's new direct and unilaterally launched spending initiatives, most of them violating provincial jurisdictions,<sup>27</sup> as well as the connected debate about the vertical fiscal imbalance reveal that it is not that simple. Not only many Quebecers, but also most provincial governments would basically agree in Alain Noël's (2002: 23) somewhat pointed statement that "[...] Canadian federalism has never been more centralized".

Table 3 summarizes the major findings of the above analysis on a more general level. The major difference between federalism in Germany and Canada relates to the institutional capacity of federal arrangements to transform frictions into political change. In Germany, intrastate federalism creates a high degree of institutional rigidity, most notably because it enforces political actors from both governmental tiers to reach agreement in order to depart from the status quo. Exit options are not available. On the one hand, this institutional property has increasingly been considered to be a major obstacle. Accordingly, frictions have become much more prevalent since the mid 1990s. On the other hand, the high degree of rigidity has allowed the defending coalition of weak *Länder* governments alongside the federal government to stave off any attempts to adjust federalism even marginally towards the interstate model of federalism. While frictions are still prevalent because the established path generates negative feedback accruing to important political actors both, the institutions of intrastate federalism and the dynamic it exhibits by fostering equifinality, are still on-path.

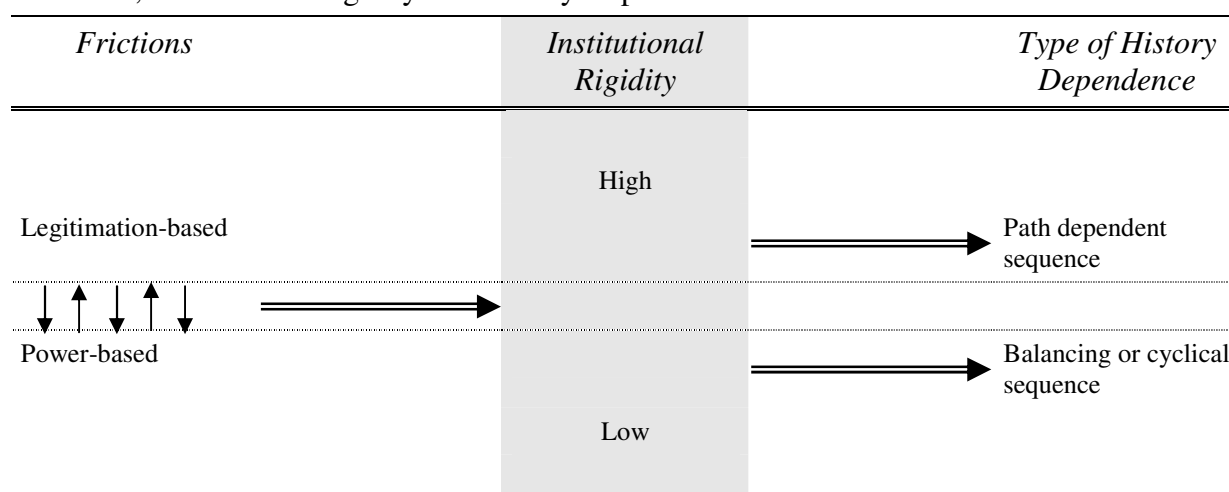
The development of Canadian federalism marks a striking contrast if compared to Germany. Indeed, as was shown in paragraph III, the institutional order itself has emerged in a highly path dependent manner here as well. However, since the institutions of interstate federalism have continuously kept the degree of institutional rigidity low, frictions did play out differently. First: The introduction of medical insurance has revealed that multifinality enhances the scope for the development of contingent alternatives. Unlike the narrow model of path dependence suggests, these contingencies can contribute to the reversal of an existing path even if they occur late in a sequence. Second: According to the logic of self rule, interstate federalism provides power resources among political actors in a way that enables them to act independently from each other. This allows entrepreneurial actors to effectively counteract existing historical outcomes, as it was the case with the provincial rights movement during the 1880s and 1890s or with Ottawa's successful exercise of the federal spending power "in reverse" (Cameron and Simeon, 2000) in 1995.

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<sup>26</sup> See for example Lewis, 2003: 171ff.

<sup>27</sup> See for example McIntosh 2004

Table3:  
Frictions, Institutional Rigidity and History Dependence



What type of history dependence, then, can help to adequately capture the federal dynamic in Canada? Canadian federalism has yielded a dynamic which obviously cannot be ascribed to the path dependent type of history dependence. Rather, the question at stake is whether it follows the logic of a balancing or cyclical sequence. While these two types of history dependence share the property that early events are counteracted rather than amplified, they provide different answers to the question of equilibrium. To be consistent with a balancing sequence, a dynamic has to develop into one equilibrated outcome in the long run. Canadian federalism, however, has never exhibited such an equilibrium. Within the stable institutional framework of interstate federalism, action and counteraction have been reoccurring patterns under shifting context conditions. Accordingly, from a historical institutionalist perspective the dynamic of federalism in Canada, resulting from the interplay of frictions and a low degree of institutional rigidity, can best be interpreted as a cyclical sequence.

## V. Conclusion

This paper has examined how the "heavy hand of history" (John Ikenberry) has influenced the institutional formation as well as the procedural dynamic of federalism in Germany and Canada. As has been demonstrated the force of history, that means the impact of early events and decisions within a historical sequence, varies considerably.

On the level of institutional formation, the development of both federations is largely consistent with the narrow model of path dependence. Interstate federalism in Canada and intrastate federalism in Germany have become locked-in as contingent and non-predictable solutions at the critical junctures of 1867 and 1871, respectively. Moreover, both institutional arrangements have been stably reproduced even in the absence of the initial conditions which were in place at the time of their birth due to complementary effects and positive feedback. On the level of the procedural dynamic, however, both cases reveal significant variations: whereas the historical sequence in Germany can be ascribed to the path dependent type of history dependence, the procedural dynamic of federalism in Canada is characterized by a cyclical process.

These empirical findings resonate with current efforts of theory-building in historical institutionalism which seem to move beyond the narrow focus on path dependence. First, as the German case has shown, the model of path dependence can indeed be a useful analytical tool to capture institutional and procedural stability. However, the temporal order of events is by no means the only way in which history shapes future developments. In Canada, given

historical outcomes have been reversed several times. This highlights the importance of recent efforts to analytically distinguish different types of history dependent processes. Second, unlike the rational-choice stream within new institutionalism, historical institutionalist research naturally puts a much stronger emphasis on structure rather than on agency. This should not, however, prevent historical institutionalist theory-building from being more sensitive towards differing degrees of rigidity entailed within institutional arrangements. It is one of the core assumptions of new institutionalism that institutions are considered to be enabling and constraining entities. The way how institutions empirically combine these features has important consequences on what type of historical change is likely to be generated.

Federalism is a multifaceted phenomenon. Far from having a general theory of federalism, various components have traditionally been given special theoretical adherence, most notably those of an institutional, societal or ideological kind. This paper has attempted to show that historical institutionalism might be a valuable theoretical framework in order to connect these elements in a more coherent way. The two models of federalism, inter- and intrastate federalism, not only allow for systematically describing and assigning empirical cases to either model. They also provide a promising starting point for deriving testable hypothesis for comparative research, most notably on how frictions are endogenously generated or what type of dynamic is likely to emerge. This might, therefore, contribute to shift the focus from the still dominant orientation to compare unitary and federal systems towards more deliberate efforts to investigate the effects of institutional differences within the sample of federations.

Such differences among federations become clearly visible in view of the pathologies ascribed to federalism in Canada and Germany on the part of entrepreneurial agents in recent reform discourses. They are diametrically opposed. While in Canada federalism seems to exhibit "too much" change due to a comparatively high degree of unilateralism, in Germany the federal order undoubtedly impeded political change. Neither political change per se, nor the preservation of the status quo, however, are ends in themselves. Political institutions do have to channel both kinds of demands in a reasonable way. Given the ongoing debate about stalemate and deadlock, though, in the light of the German case Canadian federalism appears as a highly flexible arrangement which has turned out to be quite adaptable to shifting context conditions.

## References

- Ajzenstat, Janet, Paul Romney and Ian Gentles. 1999: *Canada's Founding Debates*, Toronto: Stoddart.
- Armstrong, Christopher. 1981. *The Politics of Federalism. Ontario's Relations with the Federal Government, 1867-1942*. Toronto: University of Toronto Press.
- Bakvis, Herman. 1991. *Regional Ministers. Power and Influence in the Canadian Cabinet*. Toronto: University of Toronto Press.
- Banting, Keith. 1998. "The Past Speaks to the Future: Lessons from the Postwar Social Union." In *Non-Constitutional Renewal*, ed. Harvey Lazar. Kingston: Institute of Intergovernmental Relations: 39-69.
- Banting, Keith. 2005. "Canada – Nation-building in a Federal Welfare State." In *Federalism and the Welfare State. New World and European Experiences*, ed. Herbert Obinger, Stephan Leibfried and Francis G. Castles. Cambridge: Cambridge University Press: 89-137.
- Banting, Keith and Robin Boadway. 2004. "Defining the Sharing Community: The Federal Role in Health Care." In *Money, Politics and Health Care. Reconstructing the Federal-Provincial Partnership*, ed. Harvey Lazar and France St-Hilaire. Montreal/Kingston: Institute for Research and Public Policy: 1-77.
- Bennett, Andrew and Colin Elman. 2006. "Complex Causal Relations and Case Study Methods: The Example of Path Dependence." *Political Analysis* 14: 250-267.

- Benz, Arthur. 1999. "From Unitary to Asymmetric Federalism in Germany: Taking Stock after 50 Years." *Publius* 29: 55-78.
- Benz, Arthur. 1999a. "Rediscovering Regional Economic Policy: New Opportunities for the Länder in the 1990s." In *Recasting German Federalism. The Legacies of Unification*, ed. Charlie Jeffery. London/New York: Pinter: 177-196.
- Beyer, Jürgen. 2006. *Pfadabhängigkeit: Über institutionelle Kontinuität, anfällige Stabilität und fundamentalen Wandel*. Frankfurt/New York: Campus Verlag.
- Black, Edwin. 1975. *Divided Loyalties. Canadian Concepts of Federalism*. Montreal: McGill-Queen's University Press.
- Black, Edwin and Alan Cairns. 1966. "A Different Perspective on Canadian Federalism." *Canadian Public Administration* 9: 27-45.
- Boychuk, Gerard. 1998. *Patchworks of Purpose: The Development of Provincial Social Assistance Regimes in Canada*. Kingston/Montreal: McGill-Queen's University Press.
- Boychuk, Gerard. 2004. "The Canadian Social Model: The Logics of Policy Development." *CPRN Social Architecture Papers*. Research Report F36. Ottawa.
- Cairns, Alan. 1979. *From Interstate to Intrastate Federalism*. Kingston: Institute of Intergovernmental Relations.
- Cameron, David and Richard Simeon. 2000. "Intergovernmental Relations and Democratic Citizenship." In *Governance in the Twenty-first Century: Revitalizing the Public Service*, ed. Guy Peters and Donald Savoie. Montreal: McGill-Queen's University Press: 58-118.
- Careless, J.M.S. 1967. *The Union of the Canadas. The Growth of Canadian Institutions, 1841-1857*. Toronto: McClelland and Stewart.
- Clement, Wolfgang. 2001. "Verantwortung - Entscheidungsfähigkeit - Transparenz Gedanken zur Modernisierung des Föderalismus in Deutschland." Speech held at the German Bundesrat, June 18th 2001. Berlin.
- Cook, Ramsay. 1971. *Provincial Autonomy, Minority Rights, and the Compact Theory: 1867-1921*. Ottawa: Information Canada (Commission on Bilingualism and Biculturalism: Studies of the Royal Commission on Bilingualism and Biculturalism 4).
- Craig, Gordon. 1978. *Germany 1866-1945*. Oxford: Clarendon Press.
- Creighton, Donald. 1976. *The Road to Confederation. The Emergence of Canada: 1863-1867*. Westport: Greenwood [first: 1965].
- Crouch, Colin and Henry Farrell. 2004. "Breaking the Path of Institutional Development: Alternatives to the New Determinism in Political Economy." *Rationality and Society* 16: 5-43.
- Dästner, Christian. 2001. "Zur Entwicklung der Zustimmungsbefürftigkeit von Bundesgesetzen seit 1949." *Zeitschrift für Parlamentsfragen* 32: 290-309.
- Deuerlein, Ernst. 1972. *Föderalismus. Die historischen und philosophischen Grundlagen des föderativen Prinzips*. München: Paul List.
- Dyck, Rand. 1991. "Links between Federal and Provincial Parties and Party Systems." In *Representation, Integration, and Political Parties in Canada*, ed. Herman Bakvis. Toronto: Dundurn: 129-177.
- Elazar, Daniel. 1987. *Exploring Federalism*. Tuscaloosa: University of Alabama Press.
- Gibbins, Roger. 1982. *Regionalism. Territorial Politics in Canada and the United States*. Toronto: Butterworth.
- Goldstone, Jack. 1998. "Initial Conditions, General Laws, Path-Dependence, and Explanation in Historical Sociology." *American Journal of Sociology* 104: 829-845.
- Greer, Allan and Ian Radforth. 1992. "Introduction." In: *Colonial Leviathan. State Formation in Mid-Nineteenth-Century Canada*, ed. Allan Greer and Ian Radforth. Toronto: University of Toronto Press: 3-16.
- Gunlicks, Arthur. 2003. *The Länder and German Federalism*. Manchester/New York: Manchester University Press.
- Harty, Siobhán. 2005. "Theorizing Institutional Change." In *New Institutionalism. Theory and Analysis*, ed. André Lecours. Toronto: University of Toronto Press: 51-79.
- Howlett, Michael and Jeremy Rayner. 2006. "Understanding the Historic Turn in the Policy Sciences: A Critique of Stochastic, Narrative, Path Dependency and Process-Sequencing Models of Policy-Making over Time." *Policy Sciences* 39: 1-18.



- Immergut, Ellen. 1998. "The Theoretical Core of the New Institutionalism." *Politics and Society* 26: 5-34.
- Jeffrey, Charlie. 1999. "From Cooperative Federalism to a 'Sinatra Doctrine' of the Länder ?" In *Recasting German Federalism. The Legacies of Unification*, ed. Charlie Jeffrey. London/New York: Pinter: 329-342.
- Johnson, Al. 2004. *Dream No Little Dreams. A Biography of the Douglas Government of Saskatchewan, 1944-1961*. Toronto: University of Toronto Press.
- Katzenstein, Peter. 1976. *Disjoined Partners. Austria and Germany since 1815*. Berkeley: University of California Press.
- Katzenstein, Peter. 1987. *Policy and Politics in West Germany: The Growth of a Semisovereign State*. Philadelphia: Temple University Press.
- Kent, Tom. 1988. *A Public Purpose. An Experience of Liberal Opposition and Canadian Government*. Montreal/Kingston: McGill-Queen's University Press.
- La Selva, Samuel. 1996. *The Moral Foundations of Canadian Federalism. Paradoxes, Achievements, and Tragedies of Nationhood*. Montreal: McGill-Queen's University Press.
- Lazar, Harvey. 2000. "In Search of a New Mission Statement for Canadian Fiscal Federalism." In *Toward a New Mission Statement for Canadian Federalism*, ed. Harvey Lazar. Montreal/Kingston: McGill-Queen's University Press: 3-39.
- Lehmbruch, Gerhard. 1998. *Parteienwettbewerb im Bundesstaat*. 2nd ed. Opladen: Westdeutscher Verlag.
- Lehmbruch, Gerhard. 2002. „Der unitarische Bundesstaat in Deutschland: Pfadabhängigkeit und Wandel.“ In *Föderalismus. Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive*, ed. Arthur Benz and Gerhard Lehmbruch. Wiesbaden: Westdeutscher Verlag: 53-110.
- Leslie, Peter. 1987. *Federal State, National Economy*. Toronto: University of Toronto Press.
- Lewis, Timothy. 2003. *In the Long Run We' re All Dead. The Canadian Turn to Fiscal Restraint*. Vancouver: University of British Columbia Press.
- Lieberman, Robert. 2002. "Ideas, Institutions, and Political Order: Explaining Political Change." *American Political Science Review* 96: 697-712.
- Loewenstein, Karl. 1957. *Political Power and the Governmental Process*. Chicago: University of Chicago Press.
- Luhmann, Niklas. 1976. "Evolution und Geschichte." *Geschichte und Gesellschaft* 2: 284-309.
- MacKay, Robert. 1963. *The Unreformed Senate of Canada*. Toronto: McClelland and Stewart.
- Mahoney, James. 2000. "Path Dependence in Historical Sociology." *Theory and Society* 29: 507-548.
- Maioni, Antonia. 1998. *Parting at the Crossroads. The Emergence of Health Insurance in the United States and Canada*. Princeton: Princeton University Press.
- Mallory, James. 1968. "The Five Faces of Federalism." In *The Future of Canadian Federalism*, ed. André Crépeau and C.B. Macpherson. Toronto: University of Toronto Press: 55-80.
- Mallory, James. 1976. *Social Credit and the Federal Power in Canada*. Toronto: University of Toronto Press [first: 1956].
- McIntosh, Tom. 2004. "Intergovernmental Relations, Social Policy and Federal Transfers After Romanow." *Canadian Public Administration* 47: 27-52.
- McRoberts, Kenneth. 1997. *Misconceiving Canada. The Struggle for National Unity*. Don Mills: Oxford University Press.
- Morton, William. 1980. "Confederation 1870-1896." In *Contexts of Canada's Past. Selected Essays of William Morton*, ed. A.B. McKillop. Toronto: Macmillan: 208-228.
- Nipperdey, Thomas. 1986. "Der Föderalismus in der deutschen Geschichte." In *Nachdenken über die deutsche Geschichte*, ed. Thomas Nipperdey. München: Beck: 60-109.
- Noël, Alain. 2002. "Without Québec: Collaborative Federalism with a Footnote ?" In *Building the Social Union: Perspectives, Directions and Challenges*, ed. Tom McIntosh. Regina: Canadian Plains Research Center: 13-30.
- Obinger, Herbert, Stephan Leibfried and Francis Castles, eds. 2005. *Federalism and the Welfare State. New World and European Experiences*. Cambridge: Cambridge University Press.
- Oeter, Stefan. 1998. *Integration und Subsidiarität im deutschen Bundesstaatsrecht. Untersuchungen zur Bundesstaatstheorie unter dem Grundgesetz*. Tübingen: Mohr.
- Page, Scott. 2006. "Path Dependence." *Quarterly Journal of Political Science* 1: 87-115.

- Pierson, Paul. 1995. "Fragmented Welfare States: Federal Institutions and the Development of Social Policy." *Governance* 8: 449-478.
- Pierson, Paul. 2004. *Politics in Time. History, Institutions, and Social Analysis*. Princeton: Princeton University Press.
- Reinhard, Wolfgang. 2000. *Geschichte der Staatsgewalt. Eine vergleichende Verfassungsgeschichte Europas von den Anfängen bis zur Gegenwart*. 2nd ed. München: Beck.
- Renzsch, Wolfgang. 1991. *Finanzverfassung und Finanzausgleich*. Bonn: Dietz.
- Richards, John and Larry Pratt. 1979. *Prairie Capitalism. Power and Influence in the New West*. Toronto: McLelland and Stewart.
- Riker, William. 1975. "Federalism." In *Handbook of Political Science Vol. 5: Governmental Institutions and Processes*, ed. Fred Greenstein and Nelson Polsby., Reading: Addison Wesley: 93-172.
- Rueschemeyer, Dietrich and Peter Evans. 1985. "The State and Economic Transformation: Toward an Analysis of the Conditions Underlying Effective Intervention" In *Bringing the State Back In*, ed. Peter B. Evans, Dietrich Rueschemeyer and Theda Skocpol. Cambridge: Cambridge University Press: 44-77.
- Scharpf, Fritz. 1988. "The Joint-decision Trap: Lessons from German Federalism and European Integration." *Public Administration* 66: 239-278.
- Scharpf, Fritz. 2005. "No Exit from the Joint Decision Trap ? Can German Federalism Reform Itself ?" *MPIfG Working Paper 05/8*, Köln.
- Schultze, Rainer-Olaf. 1990. "Föderalismus als Alternative ? Überlegungen zur territorialen Reorganisation politischer Herrschaft." *Zeitschrift für Parlamentsfragen* 21: 475-490.
- Schultze, Rainer-Olaf. 2000. "Indirekte Entflechtung: Eine Strategie für die Föderalismusreform ?." *Zeitschrift für Parlamentsfragen* 31: 681-698.
- Schultze, Rainer-Olaf. 2005. "Federal Reform in Germany – Another Failed Attempt." *Federations* 4: 11-13.
- Simeon, Richard. 1980. "Natural Resource Revenues and Canadian Federalism: A Survey of the Issues." *Canadian Public Policy* VI: 182-191.
- Smiley, Donald 1971. "The Structural Problem of Canadian Federalism." *Canadian Public Administration* 14: 326-343.
- Smiley, Donald 1987. *The Federal Condition in Canada*. Toronto: McGraw-Hill Ryerson.
- Smiley, Donald and Ronald Watts. 1985. *Intrastate Federalism in Canada*. Toronto: University of Toronto Press.
- Smith, David. 1975. *Prairie Liberalism. The Liberal Party in Saskatchewan 1905-1971*. Toronto: University of Toronto Press.
- Smith, Jennifer. 1984. "Intrastate Federalism and Confederation." In *Political Thought in Canada. Contemporary Perspectives*, ed. Stephen Brooks. Toronto: Irwin: 258-277.
- Smith, Jennifer. 1988. "Canadian Confederation and the Influence of American Federalism." *Canadian Journal of Political Science* 21: 443-463.
- Stepan, Alfred. 2004. "Toward a New Comparative Politics of Federalism, Multinationalism, and Democracy: Beyond Rikerian Federalism." In *Federalism and Democracy in Latin America*, ed. Edward Gibson. Baltimore: John Hopkins University Press: 29-84.
- Stevenson, Garth 1989: *Unfulfilled Union. Canadian Federalism and National Unity*. 3<sup>rd</sup> ed. Toronto: Gage.
- Stevenson, Garth. 1993. *Ex Uno Plures: Federal-Provincial Relations in Canada, 1887-1896*. Montreal/Kingston: McGill-Queen`s University Press.
- Stinchcombe, Arthur. 1968. *Constructing Social Theories*. New York: Harcourt, Brace and World.
- Thelen, Kathleen. 2003. "How Institutions Evolve. Insights from Comparative Historical Analysis." In *Comparative Historical Analysis in the Social Sciences*, ed. James Mahoney and Dietrich Rueschemeyer. Cambridge: Cambridge University Press: 208-240.
- Thorlakson, Lori. 2003. "Comparing Federal Institutions: Power and Representation in Six Federations." *West European Politics* 26: 1-22.
- Treitschke, Heinrich von. 1913. *Historische und Politische Aufsätze. Zweiter Band: Die Einheitsbestrebungen zertheilter Völker*. 7. Aufl. Leipzig: Hirzel.
- Triepel, Heinrich. 1907. *Unitarismus und Föderalismus im Deutschen Reiche*. Tübingen: Mohr.

- Tsebelis, George. 2002. *Veto Players. How Political Institutions Work*. Princeton: Princeton University Press.
- Ullner, Rudolf. 1965. *Die Idee des Föderalismus im Jahrzehnt der deutschen Einigungskriege*. Lübeck und Hamburg: Matthiesen.
- Vipond, Robert. 1989. "1787 and 1867: The Federal Principle and Canadian Confederation Reconsidered." *Canadian Journal of Political Science* 22: 3-25.
- Vipond, Robert. 1991. *Liberty and Community. Canadian Federalism and the Failure of the Constitution*. Albany: State University of New York Press.
- Waite, Peter. 1962. *The Life and Times of Confederation 1864-1867. Politics, Newspapers, and the Union of British North America*. Toronto: University of Toronto Press.
- Whitaker, Reginald. 1983. *Federalism and Democratic Theory*. Kingston: Institute of Intergovernmental Relations.
- Winkler, Heinrich. 2002. *Der lange Weg nach Westen. Erster Band: Deutsche Geschichte vom Ende des Alten Reichs bis zum Untergang der Weimarer Republik*. München: Beck.
- Ziblatt, Daniel. 2002. "Recasting German Federalism ? The Politics of Fiscal Decentralization in Post-Unification Germany." *Politische Vierteljahresschrift* 43: 624-652.
- Ziblatt, Daniel. 2006. *Structuring the State. The Formation of Italy and Germany and the Puzzle of Federalism*. Princeton: Princeton University Press.