Watertight Compartments

This article was written by a political sciences student for the general public.

'Watertight Compartments'

'Watertight compartments' is an expression used to describe a particular vision of federalism. Also known as 'classic' federalism, this model is a strict understanding of the division of powers. Governments are independent, separate, and expected to work exclusively on their constitutionally assigned profiles. A rigid interpretation of 'watertight compartments,' then, sees the federal and provincial governments "operate in splendid isolation from one another."

Sections 91 and 92 and the Constitutional Reality

Sections 91 and 92 of the *Constitution* outline federal and provincial responsibilities. For instance, Ottawa has jurisdiction over areas such as criminal law, defense, and the postal service. These are files that are national in scope and affect all Canadians. Provinces are responsible for portfolios like education, health care, and municipal institutions. Needs in these areas differ from province to province and thus require local attention. Dividing these compartments is a central theme of federalism and is intended to minimize having 'too many cooks in the kitchen.'

While the *Constitution* clearly defines governmental powers, the strict division of powers does not always work neatly in practice. One such instance can be seen in the area of criminal law. Although the *Criminal Code* is a federal document, the establishment, maintenance, and management of jails fall under provincial jurisdiction. Thus, a certain level of intergovernmental coordination is necessary to fulfill the administration of justice. This is the case in many other areas such as health care. According to Richard Simeon and Amy Nugent, "the classical 'watertight compartments' model of federalism no longer exists, if indeed it ever did in reality."

Jennifer Smith, *Federalism* (Vancouver: UBC Press, 2004) at 166.

Constitution Act, 1867 (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5 .

Criminal Code, RS C 1985, c C-46; *Ibid* at s 92(6).

Richard Simeon & Amy Nugent, "Parliamentary Canada and Intergovernmental Canada: Exploring the Tensions" (in Herman Bakvis & Grace Skogstad, eds, *Canadian Federalism*, Don Mills: Oxford University Press, 2012) at 64.