

Judging the Judiciary as Federalism's Umpire - Conflicting Visions of Canadian Federalism and the Ideal Role of the Judiciary Surrounding Bennett's New Deal

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ABSTRACT

When an attempt to shift the responsibility for unemployment insurance from the provinces to the federal government in response to the Great Depression was halted in 1937 after having been deemed unconstitutional by the judicial committee of the Privy Council, it provoked angry responses from contemporary legal scholars. Some questioned the wisdom of British Judges making rulings of social importance over Canadian affairs. However, newer analysis of the Court's decision, as well as a breakdown of some of the criticisms of the past shows that many of the arguments levied against the JCPC were misguided and that the JCPC, like the modern Supreme Court that replaced it, effectively played the role of an umpire in setting disputes between the two levels of government in a democratic fashion, as well as in a manner that conforms to Canada's multinational character.



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