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Document No. 149

June 12, 1969.

CONSTITUTIONAL CONFERENCE

FIRST WORKING SESSION

JUNE 11-12, 1969

REPORT OF THE CONCLUSIONS

OF THE MEETING





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Report on the Conclusions of the Meeting

The Prime Ministers and Premiers held their First Working Session in Ottawa on June 11 and 12, 1969.

The agenda of the meeting was as follows:

1. Distribution of Powers in the Constitution:
 - a) The Taxing Powers
 - b) The Spending Powers
2. Constitutional Aspects of Regional Disparities
3. Progress Reports from Committees of Ministers
4. Programme of Work for the Constitutional Review
5. Other Business

Item 1 - General

In the consideration of this item, all governments noted that the present discussions about the taxing and spending powers were subject to a satisfactory division of powers being developed. The government of Canada and several provinces were concerned that any agreement on the taxing and spending powers was subject to a distribution of legislative powers which would ensure a strong central government. Some provinces made the point that federalism also meant strong provincial governments.

Agenda Item 1 a) -

With one exception, the First Ministers agreed that Parliament and the provincial legislatures should generally have access to all tax fields, the power of the Parliament

of Canada applying across the country and the power of each provincial legislature applying within that province. In applying this principle, the following objectives were accepted:

- (i) The "within the province" limitation of provincial taxing powers should generally be applied with respect both to direct and indirect taxes, so as to protect the taxpayer against the taxation of his income, property or purchases by more than one province.
- (ii) The taxing powers of both Parliament and the provincial legislatures should be limited so as to avoid the erection of "tax barriers" to interprovincial trade, and the power to impose customs duties should continue to be confined to Parliament alone.
- (iii) Considering that both Parliament and the provincial legislatures would have access in general to the same sources of tax revenue, there should be more regular and adequate federal-provincial consultations.

It was recognized that the principle of general access to all tax fields would not enable all provincial governments equally to discharge their constitutional responsibilities, and therefore Parliament should have the explicit power to make equalization grants to provincial governments. One province advocated that, instead of equalization grants to governments, there be established a basic income for all Canadians.

While some differences of views were expressed the First Ministers agreed that the Continuing Committee of federal and provincial officials be instructed to consider further how these principles, if formally accepted, might be applied in a revised constitution and, in particular, to consider the alternative method of their application to the taxation of estates, transactions and real property. Certain provinces expressed the view that death duties and real property taxes should be excepted from the principle of access.

The Conference recognized that the discussions on the use by Parliament and the legislatures of their taxing powers should proceed concurrently with the constitutional discussions, and that such discussions would be of continuing importance in relation to the discharge by governments of their constitutional responsibilities.

Agenda Item 1 b) -

The second major item of discussion concerned the exercise of the spending power of the Parliament of Canada. Most delegations agreed that the present power of Parliament to make payments to individuals or to institutions should not be subjected to any constitutional limitation; one province, however, reserved its position until the question of the distribution of powers had been dealt with, while some other provinces expressed the view that this federal power should in practice be exercised in consultation with the provinces. It was also noted that some differentiation of institutions might be required before this principle could be finally accepted.

There was general agreement that there should be no constitutional restriction on the power of the Parliament of Canada to make unconditional grants to provincial governments; one province, however, expressed the view that the establishment of a negative income tax plan, administered by the Government of Canada, would make such payments unnecessary.

It was generally agreed that the Parliament of Canada should continue to have the power to make conditional grants to provincial governments, provided there is a satisfactory formula for determining a national consensus in favour of particular programmes, and provided there is a satisfactory formula for compensation in non-participating provinces.

With respect to the formula for determining the consensus there was agreement that the Parliament of Canada and the provincial legislatures would be the appropriate bodies to determine whether a consensus exists, and there was general agreement that the formula should reflect the regional character of the country. However, one province stated that while it agreed with the principle of establishing a consensus, it considered that the formula for amending the constitution might well provide the basis for reaching consensus. It was further agreed that the Continuing Committee of Officials should look again at alternative formulae.

There was general agreement that there should be no fiscal penalty upon the people of the non-participating provinces and that the ways of achieving this would be discussed at future meetings.

Agenda Item 2 -

The First Ministers agreed that the objective of reducing disparities across the country should be written into the preamble of a revised constitution as a basic goal of the Canadian people. Some provinces argued further that the Constitution should impose on the Federal Government a specific obligation to alleviate disparities. First Ministers agreed that at future discussions on the division of powers, it will be important to ensure that the federal and the provincial governments have appropriate powers to work toward this objective.

Agenda Item 3 -

The Working Session was advised of the progress which had been made by Committees of Ministers on the following matters:

Official Languages
Fundamental Rights
The Judiciary
The Senate

The First Ministers took note of the progress to date and agreed that all the Committees should endeavour to meet again and report further to the Constitutional Conference before its next meeting.

Agenda Item 4 -

The Prime Ministers and Premiers agreed to meet again before the end of the year.