

CONFIDENTIAL

Second Working Session, Constitutional Conference

September, 1970

BRIEFING PAPER

September 9, 1970.

REGIONAL DISPARITIES - CONSTITUTIONAL OBLIGATION

A. Federal Objectives in the Discussion of this Subject

1. To demonstrate a concern for regional disparities and a willingness to accept all reasonable constitutional provisions which will facilitate their reduction.
2. To appear responsive to views of the smaller provinces such as Nova Scotia (and to a lesser extent the other Atlantic provinces) and maintain their interest in the review.
3. To avoid further (and repetitious) discussions of regional disparities in the Constitutional Conference for some time.
4. Thus to reaffirm the position with respect to the statement of objectives in the preamble, to try to get unanimous agreement on the need for adequate federal (note B.C. and Alberta's previous positions, below) and provincial powers to combat disparities, and to conclude the discussion at this time by getting agreement in principle on putting in the body of the constitution a non-enforceable obligation, on both orders of government, to reduce regional disparities. This would be essentially the adoption of the Nova Scotia proposal of December, 1969. (The conclusions reached might best be formalized in the statement of conclusions issued at the end of the Working Session.)
5. To leave open until later the precise wording of such an obligation.
6. To keep this subject off the agenda for some time.

B. Discussion Guide

(The Secretariat Report can be used as the basic working document by the meeting.)

1. Review of previous conclusions of Conference (described in quotations from December conclusions. Secretariat Report on Regional Disparities, Secretariat Briefing Book, Tab 8 at p. 1).

- (a) Preamble to state objective re: regional disparities - federal position - stated in The Constitution and the People of Canada, as an objective for confederation
"To promote national economic, social

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and cultural development, and the general welfare and equality of opportunity for all Canadians in whatever region they may live, including the opportunity for gainful work, for just conditions of employment, for an adequate standard of living, for security, for education, and for rest and leisure."

Provincial positions - all agreed in June and December, 1969, sessions.

(b) Adequate powers of both federal and provincial governments -

Federal position - in favour, with emphasis on federal powers re: equalization of provincial revenues and thus provincial public services, redistribution of personal income, and regional economic development.

Provincial position - general agreement in December (see Secretariat Report at p. 1) except for B.C. and Alberta who at that time took the position that if the federal government had only a power to pay a guaranteed annual income, this would remove individual disparities and thus in time reduce other forms of regional disparities.

Comment

- if B.C. and Alberta aren't confronted directly on their earlier position they might accept the general principle of "appropriate" or "adequate" powers for both levels of government and leave until later the definition of those powers;
- on the substance of their argument, provinces would at most collect through taxes no more than 10-20% of increased payments to persons under a guaranteed annual income plan. This probably would not be enough to replace equalization unless the guaranteed income was impossibly high. (See The Taxing Powers and the Constitution of Canada, p. 12).

2. Inclusion in the constitution of an obligation to reduce disparities. (Secretariat Report, conclusions pp. 3, 4)

Federal Position - Could agree now in principle on inclusion of a statement of obligation, not judicially enforceable, as the legal effect would not be essentially different from having a statement of objectives in the preamble. Would want to reserve our position on inclusion of non-enforceable obligations on other subjects.

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Provincial Position - Probably will agree to this. Premier Smith had indicated privately this would satisfy him. Some premiers not directly concerned will probably agree in order to drop this subject for a time.

C. Background

As outlined in Secretariat Report

1. December Conference conclusions - p. 1.
2. C.C.O. conclusions on legal implications - p. 3.
3. Definition of Regional Disparities - pp. 3-4.
(There has been some difference of attitude here on whether equalization payments reduce regional disparities. Federal officials argue that they can - in that they free other provincial funds for developing infrastructure, etc. which strengthens the local economy. Some Maritime officials stress that other measures for regional development are the essential means of reducing disparities.)
4. General conclusions - p. 4.