

45. Consultation with the Provinces on appointments to the Supreme Court of Canada must take place. We generally support the methods of consultation proposed in the Victoria Charter, but the Provinces should also be allowed to make nominations to the nominating councils which would be set up under the Victoria proposals if the Attorney-General of Canada and the Attorney-General of a province fail to agree on an appointee.
46. The Provinces should be given the right to withdraw appeals in matters of strictly provincial law from the Supreme Court of Canada and to vest final decision on such matters in their own highest courts, thus leaving to the Supreme Court of Canada jurisdiction over matters of Federal law and of constitutional law, including the Bill of Rights. The issue of whether a matter was one of strictly provincial law would be subject to determination by the Supreme Court of Canada.

Chapter 16—The National Capital Area

47. There should be a movement by stages towards the possible creation of an autonomous Canadian Capital.
48. The Canadian Capital should be generally the areas of Ontario and of Quebec now defined in the schedule to the National Capital Act (1959).

PART IV—THE GOVERNMENTS

Chapter 17—The Division of Powers

49. The use of exclusive lists of Federal and Provincial powers, but with an extended list of concurrent powers, should be continued.
50. Concurrent powers which predominantly affect the national interest should grant paramountcy to the Federal Parliament and those which predominantly affect Provincial or local interests should grant paramountcy to the Provincial legislatures.
51. The Constitution should permit the delegation of executive and administrative powers (as at present), but not of legislative powers except where expressly specified in this Report.

Chapter 18—The General Legislative Power of Parliament

52. The "Peace, Order, and good Government" power should be retained in the Constitution as an expression of the overriding Federal legislative power over matters of a national nature.
53. Since the Federal General Legislative Power is counterbalanced by a Provincial power over matters of a Provincial or local nature, there is no place for a purely residuary power.

Chapter 19—Taxing Powers

54. Generally speaking and subject to recommendation 55, we endorse the principle that the Federal and

Provincial Governments should have access to all fields of taxation. However, in order to bring about a division of revenues that may accurately reflect the priorities of each government, there should be Federal-Provincial consultations to determine the most equitable means of apportioning joint fields of taxation in the light of:

- (a) the projected responsibilities of each level of government in the immediate future;
- (b) the anticipated increases in their respective expenditures;
- (c) economic and administrative limitations, such as preserving sufficient leverage for the Federal Government, by means of its taxation system, to discharge effectively its function of managing the economy.

55. Provincial legislatures should have the right to impose indirect taxes provided that they do not impede interprovincial or international trade and do not fall on persons resident in other Provinces. These limitations could be satisfied by tax collection through an interprovincial or Federal-Provincial collection agency, or by tax collection agreements.

Chapter 20—The Federal Spending Power

56. The power of the Federal Parliament to make conditional grants for general Federal-Provincial (shared-cost) programs should be subject to the establishment of a national consensus both for the institution of any new program and for the continuation of any existing one. A consensus would be established by the affirmative vote of the Legislatures in three of the four regions of Canada according to the following formula: the vote of the Legislatures in the Atlantic region would be considered to be in the affirmative if any two of the Legislatures of Nova Scotia, New Brunswick or Newfoundland were in favour; the vote of the Legislatures of the Western region would be considered to be in the affirmative with the agreement of any two of the four Legislatures. The consensus for existing joint programs should be tested every 10 years.
57. If a Province does not wish to participate in a program for which there is a national consensus, the Federal Government should pay the Government of that Province a sum equal to the amount it would have cost the Federal Government to implement the program in the Province. However, a tax collection fee of about 1 per cent, equivalent to the cost of collecting the money paid to the Province, should be deducted from the amount paid to such non-participating Provinces.
58. In order that the objectives of joint programs may be more effectively realized, conditional Federal grants should preferably be based on the cost of the programs in each Province. However, since a 50-50 cost-sharing formula, when applied to the expenditures made in each Province, constitutes too great an incentive in high-income Provinces, conditional Federal grants should not be made for that portion of Provincial expenditures which lies above the national average cost of the service. The maximum per