

unfair, but now we know they are. Consequently, even if we correct all wrongs as we see them now, I am sure that tomorrow we will see clearly inequities that are now overlooked (Issue 12, p. 13).

B. The Question of Money

While the benefits of the Court Challenges Program in terms of jurisprudence are clear, the saving that might be achieved by cancelling it remains murky. Obviously, one could start by asking: What price can we place on justice? But this begs the question almost as much as hiding the costs and benefits of a publicly-funded program behind the cloak of the secrecy of budget deliberations. A debate of this nature resolves nothing.

This Committee has stated its position on the need for dialogue about policy in our earlier report, *Unanswered Questions*:

Arguments that weigh and compare alternatives can only be responded to by arguments that do the same thing. To respond to arguments with unelaborated announcements is to ignore the arguments—or at least give that appearance (p. 3).

Throughout our hearings on the cancellation of the Court Challenges Program we repeatedly sought enlightenment on the question of costs versus benefits.

1. A Balance Sheet

In the interest of stimulating a constructive discussion over the issue of money, we have put together a few considerations to help in drawing up a rough balance sheet.

- a. Much of the money that will continue to be paid out of the Court Challenges Program for cases at the trial level will be wasted. This situation will arise because many of those who initiate a case using Program funding will not be able to raise the money necessary to appeal an adverse decision or to counter an appeal by the government. Cases funded by the Court Challenges Program were selected as “test cases” with the expectation that a definitive decision on the matter would not be reached until they had gone to a court of appeal or the Supreme Court of Canada.
- b. It is important to remember that the Court Challenges Program has been a line item in the *Estimates* of the Department of Multiculturalism and Citizenship and therefore quite visible. If the Department of Justice, or any other department of government, were to undertake funding of Charter challenges on an *ad hoc* basis, the amount would be hidden in the *Estimates* and there is no reason to believe that it would be less.
- c. Salaries of lawyers working for the Court Challenges Program are far lower than those of lawyers with the Department of Justice who possess similar qualifications.