

RECOMMENDATION

19. That the contribution agreement be amended to give the Language Rights Panel and the Equality Rights Panel greater discretion in the following manner:
- 1- There should be a regular, periodic review of the program's funding limit for court cases. These reviews should bear in mind that the program's mandate should continue to allow the panel to override the funding limit in exceptional circumstances.
 - 2- The requirement in the contribution agreement that all accounts be taxed should be replaced by a stipulation that all accounts be reviewed by the clients and by the staff of the Court Challenges Program and then approved by the appropriate panel. The agreement should also include a provision that either the client or the panel may request adjudication or taxation of a lawyer's account.
 - 3- The agreement should provide for either the Language Rights Panel or Equality Rights Panel to make a funding commitment for the required number of levels of court. This commitment should also be seen as an expenditure in the fiscal year of the funding decision to ensure that funds are available throughout the whole court process. The panel should review its decision at every level of court and have the capacity to decide to withdraw a funding commitment at any level.
 - 4- The Department of Justice should conduct a review of its approach to litigation under section 15 and report to this Committee by June 30, 1990 on its policies with regard to the Department's litigation strategy, particularly its approach to procedural issues in section 15 cases.

RESPONSE TO 19-1-

The Court Challenges Program was not designed to pay for all legal fees and expenses incurred by groups applying for funds. The Government of Canada regards the \$35,000 limit for each court level as a reasonable contribution in support of a test case. It should be noted that the memorandum of agreement provides for payments in excess of \$35,000 in very special occasions. The memorandum of agreement will provide proper guidelines.

RESPONSE TO 19-2-

There is a general consensus among all parties involved with the Court Challenges Program that the taxation criteria is a stumbling block. The Standing Committee's recommendation is well taken. The memorandum of agreement will ensure the abolishment of automatic taxation and could be worded as follows:

Payment of accounts for legal expenditures will be subject to prior taxation... when requested by the funded group, the Program or the Department.