

such, but believed that the present method of appointment invites abuse. While there is broad agreement among the members of our Committee on that point, most of us do not believe that the alternative methods suggested in recent years would bring about any fundamental change. The present method, despite its faults, has resulted in the appointment of many outstanding public figures who have served Canada well. We propose that it be retained until a system of direct election is put in place, but that it be used in a way that befits what we expect will be a more effective second chamber of Parliament.

We believe that our proposed nine-year non-renewable term for future appointments, replacing what is in effect an appointment for life, would in itself have some influence on the kind of people who would be offered and might accept an appointment, and would be more acceptable to the public. This term corresponds to the one we recommend for an elected Senate.

The introduction of a fixed term would require an amendment to the Constitution. However, we understand that a fixed term of nine years would almost certainly not require the use of the general constitutional amending procedure, which involves the provincial legislatures, because it would not affect "the powers of the Senate" or "the method of selecting senators". The amendment would therefore be within the authority of Parliament under section 44 of the *Constitution Act, 1982*. The Supreme Court might hold that a substantially shorter term than nine years would affect the ability of senators to carry out their role of legislative review and would therefore impinge on the powers of the Senate, thus requiring the consent of the provinces. Such, at any rate, is our reading of the Court's judgement in the *Upper House Reference Case* which, while it preceded the recent constitutional amendments in respect of the Senate, may still have some relevance to this matter. A single term of nine years should not present any problem in that regard.

At the time the Committee adopted the report (21 December 1983), out of a total of 104 seats, there were 21 vacancies. The recent practice of leaving seats vacant for a considerable number of years is crippling. The Senate cannot perform the time-consuming legislative review and investigative work through its committees with 20 per cent of its seats vacant. The Senate cannot be expected to function as a forum for voicing regional interests if there are no voices to be heard.

We believe that, as a general rule, vacancies should be filled within six months. We recommend that all the present vacancies be filled, by appointments for fixed terms of nine years, subject to an express understanding that they could be cut short by the introduction of an elected Senate.

The present composition of the Senate does not represent the social and cultural structure of Canada adequately. This is unacceptable. In filling the present vacancies, priority should be given to correcting this deficiency through the appointment of women, members of aboriginal groups, and members of cultural minorities.

The Senate cannot perform in the manner intended by the fathers of Confederation when the balance of representation between political parties diverges as sharply