

- d. To retain even a semblance of an arm's length relationship and avoid an unacceptable conflict of interest, the government would still have to maintain some type of independent assessment process to adjudicate requests for the funding of Charter challenges. This assessment process would incur many of the same costs that currently apply to the Language Rights and Equality Rights Panels of the Court Challenges Program.
- e. There would be no immediate, measurable decrease in the case funding expenditures of the Court Challenges Program because the money that is currently being released and will be released in the next year or two has already been committed. This delay is due to the slowness of the court process and the fact that any significant payment to lawyers who work on cases funded by the Court Challenges Program is only authorized after a court has rendered judgment on that case. Any major saving to the government is potentially several years down the road and, in fact, the odds are that payments from the public purse for legal bills will increase in the next two years.
- f. According to evidence to date, funding litigation through a government department has historically led to considerably higher costs per case than challenges funded by the Court Challenges Program. This has been the situation with the Department of Indian Affairs and Northern Development which itself still funds court challenges to clarify aboriginal rights.

2. Commentary

The evidence that was produced for this Committee's investigation points to the fact that the Program has been efficiently administered. For example, the Contribution Agreement that was signed between the University of Ottawa and the Minister of State (Multiculturalism and Citizenship) in July 1990, substantially reduced the administrative overhead of the Court Challenges Program. The last year that the Program was run by the Canadian Council on Social Development (1989-1990), the Program's overhead was in excess of \$180,000. In 1991-1992, the University of Ottawa had reduced the overhead cost to \$99,000 (this includes some direct costs such as the cost of the selection committees and the library and research services). In addition, the University of Ottawa has absorbed the cost of some general services that were provided to the Program.

Independent experts have confirmed that the Program's costs have been well spent. Former Supreme Court Justice Bertha Wilson noted that "I believe that I can say with complete confidence that the public has unquestionably received full value for its money on