

## RECOMMENDATION

11. That the mandate of the existing equality rights panel be broadened to create an equality and aboriginal rights panel, authorized to fund challenges based on sections 25 and 35 of the Constitution in addition to those proposed elsewhere in this report, and:
  - 1- that an annual amount of \$500,000, additional to amounts provided for the renewal of other elements of the Court Challenges Program, be provided by the government for the funding of aboriginal rights litigation;
  - 2- that the government review the mandate of the Native Test Case Funding Program, administered by the Department of Indian and Northern Affairs, to ensure that it does not overlap with the mandate of the proposed equality and aboriginal rights funding panel and reallocate funds accordingly; and
  - 3- that at least two members of the proposed equality and aboriginal rights funding panel (assuming it remains an eight-member panel) be representatives of Canada's aboriginal peoples.

## RESPONSE

The expansion of the Program, first, to include sections 25 and 35 of the Constitution with an additional \$500,000 annually for litigation of Aboriginal rights and, second, to establish a new panel to process the applications pertaining to equality and Aboriginal rights, would require a major restructuring of the Program. This is unrealistic in the current economic situation, which dictates that the Government of Canada maintain the Court Challenges Program's present scope and structure.

Nevertheless, it should be noted that, under the previous Program, the funding has specifically contributed to the advancement of the Federation of Newfoundland Indians, the Batchewana Band and the Arlene Talbourdet cases. The Equality Rights Panel has also funded, to quote the CCSD's 1988/1989 annual report: "three aboriginal organizations — the New Status Indian Association, the Native Council of Canada, and the Native Council of Canada (Alberta) — to seek intervenor status in the Twinn case now before the Federal Court of Canada".<sup>1</sup> The report on equality rights continues: "The third largest group of cases funded were those dealing with equality for aboriginal peoples (eight cases)"<sup>2</sup>.

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<sup>1</sup> Annual Report, 1988/1989: "Equality Rights Taking Shape", page 13.

<sup>2</sup> Ibid., p. 13.